A/56/18

United Nations

Report of the Committee on the Elimination of Racial Discrimination

Fifty-eighth session (6-23 March 2001)
Fifty-ninth session (30 July-17 August 2001)

General Assembly
Official Records
Fifty-sixth Session
Supplement No. 18 (A/56/18)

General Assembly
Official Records
Fifty-sixth Session
Supplement No. 18 (A/56/18)

Report of the Committee on the Elimination of Racial Discrimination

Fifty-eighth session (6-23 March 2001)
Fifty-ninth session (30 July-17 August 2001)

United Nations • New York, 2001

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

ISSN# 0252-1261

CONTENTS

Chapter		Paragraphs	Page
Letter of transmittal			8
I.	ORGANIZATIONAL AND RELATED MATTERS	1 - 16	10
	A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination	1 - 2	10
	B. Sessions and agendas	3 - 4	10
	C. Membership and attendance	5 - 7	10
	D. Officers of the Committee	8	11
	E. Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees and the United Nations Educational, Scientific and Cultural Organization	9 - 11	12
	F. Other matters	12 - 15	12
	G. Adoption of the report	16	13
II.	PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES	17 - 21	14
III.	CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION	22 - 443	16
	Algeria	22 - 40	16
	Argentina	41 - 62	18
	Bangladesh	63 - 82	21
	Georgia	83 - 102	24

CONTENTS (continued)

Chapter	Paragraphs	Page
III. (cont'd)		
Germany	103 - 119	27
Greece	120 - 141	29
Iceland	142 - 158	32
Japan	159 - 185	34
Portugal	186 - 200	38
Sudan	201 - 220	40
Gambia	221 - 223	42
Sierra Leone	224 - 226	43
Togo	227 - 230	43
China	231 - 255	44
Cyprus	256 - 277	48
Egypt	278 - 297	50
Italy	298 - 320	53
Sri Lanka	321 - 342	56
Trinidad and Tobago	343 - 359	58
Ukraine	360 - 379	61
United States of America	380 - 407	64
Viet Nam	408 - 428	68
Liberia	429 - 443	70

CONTENTS (continued)

Chapter		Paragraphs	Page
IV.	CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION	444 - 455	73
V.	CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION	456 - 461	77
VI.	ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FIFTY-FIFTH SESSION	462 - 463	79
VII.	SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION	464 - 470	80
	A. Reports received by the Committee	464	80
	B. Reports not yet received by the Committee	465	82
	C. Action taken by the Committee to ensure submission of reports by States parties	466 - 470	96
VIII.	THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE	471 - 475	98
IX.	OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE	476 - 480	102
X.	DECISIONS	481	103

CONTENTS (continued)

Annexes | Page

I. STATUS OF THE CONVENTION ... 106

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (158), as at 17 August 2001 ... 106

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (34), as at 17 August 2001 ... 111

C. States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties (32), as at 17 August 2001 ... 112

II. AGENDAS OF THE FIFTY-EIGHTH AND FIFTY-NINTH SESSIONS ... 114

A. Fifty-eighth session (6-23 March 2001) ... 114

B. Fifty-ninth session (30 July-17 August 2001) ... 115

III. DECISIONS OF THE COMMITTEE UNDER ARTICLE 14 OF THE CONVENTION ... 116

A. Fifty-eighth session ... 116

No. 15/1999 (E.I.F. v. The Netherlands) ... 116

No. 18/2000 (F.A. v. Norway) ... 125

B. Fifty-ninth session ... 130

No. 11/1998 (Lacko v. Slovak Republic) ... 130

No. 14/1998 (D.S. v. Sweden) ... 139

No. 19/2000 (Mostafa v. Denmark) ... 144

No. 21/2001 (D.S. v. Sweden) ... 151

IV. DOCUMENTS RECEIVED BY THE COMMITTEE AT ITS FIFTY-EIGHTH AND FIFTY-NINTH SESSIONS IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION ... 153

CONTENTS (continued)

Annexes Page

V. COUNTRY RAPPORTEURS FOR REPORTS OF STATES PARTIES CONSIDERED BY THE COMMITTEE AT ITS FIFTY-EIGHTH AND FIFTY-NINTH SESSIONS 154

VI. COMMENTS OF THE COMMITTEE ON A REPORT ON THE UNITED NATIONS HUMAN RIGHTS TREATY SYSTEM (2001) 156

VII. COMMENTS OF STATES PARTIES ON CONCLUDING OBSERVATIONS ADOPTED BY THE COMMITTEE 158

A. The initial and second periodic reports of Japan 158

B. The sixth to ninth periodic reports of Viet Nam 163

VIII. LIST OF DOCUMENTS ISSUED FOR THE FIFTY-EIGHTH AND FIFTY-NINTH SESSIONS OF THE COMMITTEE 165

Letter of transmittal

17 August 2001

Sir,

It is with pleasure that I transmit the annual report of the Committee on the Elimination of Racial Discrimination, which I believe is very relevant in the context of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in South Africa in September 2001.

The World Conference represents a landmark opportunity for States to galvanize political will around fundamental objectives integral to humanity: the promotion of human rights for all and, more specifically, the elimination of racial discrimination in all its forms and manifestations. The Committee has welcomed the requests from the General Assembly and the Commission on Human Rights to participate actively in this collective quest, through the numerous activities discussed in this report. The International Convention on the Elimination of All Forms of Racial Discrimination has now been ratified by 158 States, constituting the normative basis upon which international efforts to eliminate racial discrimination should be built. The Committee welcomes the ratification campaigns of the United Nations Secretary-General and the High Commissioner for Human Rights in connection with the Millennium Summit held in September 2000 and the World Conference.

During the past year the Committee continued with a significant workload in terms of examination of States parties' reports (discussed in chapter III) in addition to specific World Conference-related activities (chap. VIII). The activities in the latter category included the preparation of a comprehensive written contribution to the Conference, participation at the sessions of the Preparatory Committee and other lead-up events, and preparing and promoting targeted measures for improvement of the Conference's envisaged declaration and programme of action at its various stages of drafting.

As important as the Committee's contributions have been to date, there are obviously some areas for improvement. At present only 34 States parties (see annex I) have made the optional declaration recognizing the Committee's competence to receive communications under article 14 and, as a consequence, the individual communications procedure is underutilized, as indeed is also the inter-State complaints procedure.

Furthermore, only 32 States parties have so far ratified the amendments to article 8 of the Convention adopted at the Fourteenth Meeting of States Parties (see annex I), despite the General Assembly's repeated calls to do so. The Committee appeals to States parties which have not yet done so to consider the possibility of making the declaration under article 14 and to ratify the amendments to article 8 of the Convention.

His Excellency Mr. Kofi Annan
Secretary-General of the United Nations
New York

I would also like to point out that my colleagues consider that the holding of one of the Committee's meetings at United Nations Headquarters, as provided in article 10, paragraph 4, of the Convention, would inter alia afford to States without representation in Geneva the possibility of having a better dialogue with the Committee.

The Committee itself remains committed to a continual process of reflection on and improvement of its working methods, with the aim of maximizing the Committee's effectiveness. Building upon pre-existing initiatives directed at the consolidation of overdue reports, and mindful of the frequent periodicity of reporting obligations under article 9 of the Convention, at its fifty-eighth session the Committee ushered in procedures designed to ease the reporting burden for those States parties which submit their reports in a timely fashion (see chapter IX). Moreover, the Committee kept under review and affirmed the importance of civil society involvement in the Committee's work, and at the fifty-ninth session considered ways to strengthen its "review" procedure for States parties whose reports are more than five years overdue, where circumstances disclose serious violations of the Convention's provisions and grave dereliction of the reporting obligation (chaps. III and IX).

I take great personal pride in the dedication and professionalism demonstrated by the Committee members in the performance of their important work. The dynamic pluralism of the membership considerably enhances the quality and relevance of its analytical work in the greatly diverse circumstances it is called upon to consider. I remain confident of the Committee's abilities to contribute significantly to the implementation of both the Convention and the World Conference outcomes in the years ahead.

Please accept, Sir, the assurances of my highest consideration.

(Signed) Michael E. Sherifis
Chairman
Committee on the Elimination of
Racial Discrimination

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 17 August 2001, the closing date of the fifty-ninth session of the Committee on the Elimination of Racial Discrimination, there were 158 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the fifty-ninth session, 34 of the 158 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of States parties to the Convention and of those which have made the declaration under article 14 are contained in annex I to the present report, as is a list of the 32 States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties, as at 17 August 2001.

B. Sessions and agendas

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 2001. The fifty-eighth (1438th-1464th meetings) and fifty-ninth (1465th-1493rd meetings) sessions were held at the United Nations Office at Geneva from 6 to 23 March and from 30 July to 17 August 2001, respectively.

4. The agendas of the fifty-eighth and fifty-ninth sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. There were four resignations from the Committee between the fifty-seventh and fifty-eighth sessions: Mr. Michael Banton in September 2000, Ms. Deci Zou in October 2000, Mr. Brun-Otto Bryde in January 2001 and Mr. Peter Nobel in March 2001. The following members were nominated as successors to the former members for the remainder of their terms by the States parties indicated in brackets, in accordance with article 8, paragraph 5 (b), of the Convention: Mr. Patrick Thornberry (United Kingdom of Great Britain and Northern Ireland), Mr. Tang Chengyuan (China) and Ms. Gabriele Britz (Germany). No replacement for Mr. Nobel was nominated by Sweden, leaving the vacancy created by Mr. Nobel's resignation to be filled in accordance with the provisions of article 8, paragraphs 1-4, of the Convention at the meeting of States parties scheduled for January 2002. In accordance with rule 13 of its rules of procedure, the Committee approved the nominations of Mr. Thornberry and Mr. Tang at its fifty-eighth session, and of Ms. Britz at its fifty-ninth session.

6. The list of members of the Committee for 2001-2002 is as follows:[1]

Name of member	Country of nationality	Term expires 19 January
Mr. Mahmoud ABOUL-NASR	Egypt	2002
Mr. Marc BOSSUYT	Belgium	2004
Ms. Gabriele BRITZ	Germany	2002
Mr. Ion DIACONU	Romania	2004
Mr. François Lonsény FALL	Guinea	2004
Mr. Régis de GOUTTES	France	2002
Ms. Patricia Nozipho JANUARY-BARDILL	South Africa	2004
Mr. Carlos LECHUGA HEVIA	Cuba	2002
Ms. Gay McDOUGALL	United States of America	2002
Mr. Raghavan Vasudevan PILLAI	India	2004
Mr. Yuri A. RESHETOV	Russian Federation	2004
Mr. Agha SHAHI	Pakistan	2002
Mr. Michael E. SHERIFIS	Cyprus	2002
Mr. TANG Chengyuan	China	2004
Mr. Patrick THORNBERRY	United Kingdom of Great Britain and Northern Ireland	2002
Mr. Luis VALENCIA RODRIGUEZ	Ecuador	2004
Mr. Mario Jorge YUTZIS	Argentina	2004

7. All members of the Committee attended the fifty-eighth and fifty-ninth sessions.

D. Officers of the Committee

8. At its 1372nd meeting (fifty-sixth session), on 6 March 2000, the Committee elected the Chairman and Vice-Chairmen as listed below in accordance with article 10, paragraph 2, of the Convention, for the terms indicated in brackets. At its 1438th meeting (fifty-eighth session), on 6 March 2001, the Committee elected Mr. Bossuyt as Rapporteur for the unexpired term of the former Rapporteur, Mr. Banton.

Chairman:	Mr. Michael E. SHERIFIS (2000-2002)
Vice-Chairmen:	Mr. François Lonsény FALL (2000-2002) Mr. Yuri A. RESHETOV (2000-2002) Mr. Luis VALENCIA RODRIGUEZ (2000-2002)
Rapporteur:	Mr. Marc BOSSUYT (2001-2002)

E. Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees and the United Nations Educational, Scientific and Cultural Organization

9. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO),[2] both organizations were invited to attend the sessions of the Committee. Consistent with the Committee's recent practice, the Office of the United Nations High Commissioner for Refugees (UNHCR) was also invited to attend.

10. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations submitted to the International Labour Conference were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two Committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as other information in the reports relevant to its activities.

11. UNHCR submits comments to the members of the Committee on all reports of States parties that are being examined when UNHCR is active in the country concerned. These comments make reference to the human rights of refugees, asylum-seekers, returnees (former refugees), stateless persons and other categories of persons of concern to UNHCR. UNHCR representatives attend the sessions of the Committee and report back on any issues of concern raised by Committee members. At the country level, although there is no systematic follow-up to the implementation of the Committee's concluding observations and recommendations in the 130 UNHCR field operations, these are regularly included in activities designed to mainstream human rights in their programmes.

F. Other matters

12. At the 1450th meeting (fifty-eighth session), on 14 March 2001, the United Nations High Commissioner for Human Rights addressed the Committee. She informed the Committee about the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and congratulated the Committee on its participation in the various regional and expert conferences in the lead-up to the World Conference, and in particular for its comprehensive written contribution (A/CONF.189/PC.2/13). She encouraged the Committee to continue its active engagement in events leading up to the World Conference, with a view to maximizing the important role of the Committee and the Convention. In this regard, the High Commissioner informed the Committee of the present status of ratifications of the Convention and the number of declarations made under the article 14 communications procedure, and that she had written to heads of Government urging all States not party to the Convention or that had not yet submitted a declaration under article 14 to ratify or adhere to the Convention or make the declaration as soon as possible. With reference to the Committee's activities in the field of prevention and its early warning and urgent action procedure, the High Commissioner stressed the importance of education in the pursuit of a culture of peace, and welcomed the Committee's

intention to refine the criteria for its early warning procedure. The High Commissioner also informed the Committee about the plans made by her Office to increase the resources for the servicing of the human rights treaty bodies in general and the Committee in particular (see CERD/C/SR.1450).

13. The High Commissioner for Human Rights also addressed the Committee at its 1467th meeting (fifty-ninth session), on 31 July 2001. She briefed the Committee on developments that had taken place since the fifty-eighth session relating to the World Conference, and encouraged the Committee to continue its active role in seeking to influence the content of the emerging draft declaration and programme of action and to help define an appropriate role for the Committee and the Convention within the context of a broader global alliance against racism in the follow-up to the Conference itself (see CERD/C/SR.1467).

14. At its fifty-ninth session the Committee established an informal working group and appointed Mr. Thornberry as convenor, in order to consider adopting a position in response to certain criticisms levelled against the Committee in a report on United Nations human rights treaty body reform published in April 2001. At its 1489th meeting, the Committee adopted, without a vote, its comments on this issue (annex VI). The Committee decided to send the text to the High Commissioner for Human Rights, along with a request that it be forwarded to a range of parties including other human rights treaty bodies, States parties, the Commission on Human Rights and the Sub-Commission for the Promotion and Protection of Human Rights.

15. At its fifty-ninth session (1483rd and 1488th meetings), the Committee adopted decisions on the situations in Cyprus, Liberia and organizational matters, respectively (chap. X).

G. Adoption of the report

16. At its 1493rd meeting, on 17 August 2001, the Committee adopted its annual report to the General Assembly.

II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

17. The Committee decided at its forty-first session to establish this item as one of its regular and principal agenda items.

18. At its forty-second session (1993), the Committee noted the conclusion adopted by the fourth meeting of persons chairing the human rights treaty bodies that:

> "... the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States Parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible." (A/47/628, para. 44)

19. As a result of its discussion of that conclusion of the meeting of chairpersons, the Committee, at its 979th meeting, on 17 March 1993, adopted a working paper to guide it in its future work concerning possible measures to prevent, as well as more effectively respond to, violations of the Convention.[3] The Committee noted in its working paper that efforts to prevent serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination would include the following:

(a) Early-warning measures: these would be aimed at addressing existing problems so as to prevent them from escalating into conflicts and would also include confidence-building measures to identify and support structures to strengthen racial tolerance and solidify peace in order to prevent a relapse into conflict in situations where it has occurred. In that connection, criteria for early warning could include some of the following concerns: the lack of an adequate legislative basis for defining and criminalizing all forms of racial discrimination, as provided for in the Convention; inadequate implementation of enforcement mechanisms, including the lack of recourse procedures; the presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other officials; a significant pattern of racial discrimination evidenced in social and economic indicators; and significant flows of refugees or displaced persons resulting from a pattern of racial discrimination or encroachment on the lands of minority communities;

(b) Urgent procedures: these would aim at responding to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. Possible criteria for initiating an urgent procedure could include the presence of a serious, massive or persistent pattern of racial discrimination; or that the situation is serious and there is a risk of further racial discrimination.

20. At its 1028th and 1029th meetings, on 10 March 1994, the Committee considered possible amendments to its rules of procedure which would take into account the working paper it had adopted in 1993 on the prevention of racial discrimination, including early warning and urgent procedures. During the discussions which followed, the view was expressed that it was

too early to make changes in the rules of procedure in order to take account of procedures adopted only very recently. There was a risk that the Committee might be locking itself into rules which would soon no longer fit its needs. It would, therefore, be better for the Committee to have more experience with the procedures in question and to amend its rules at a later point on the basis of that experience. At its 1039th meeting, held on 17 March 1994, the Committee decided to postpone to a later session further consideration of proposals to amend its rules of procedure.

21. No decisions were adopted by the Committee at its fifty-eighth and fifty-ninth sessions within the framework of its prevention activities. At the fifty-eighth session the situation in Côte d'Ivoire, originally listed for inclusion under the Committee's review procedure for seriously overdue reports, was removed for consideration instead under the early warning and urgent action procedure (CERD/C/SR.1438 and CERD/C/SR.1452). However, consideration of the situation was postponed at the request of the State party and its undertaking to submit its overdue reports within a four-month period, as a basis for the resumption of a constructive dialogue with the Committee (CERD/C/SR.1459). At earlier sessions the Committee considered the situation in the following State parties under this agenda item: Algeria, Australia, Bosnia and Herzegovina, Burundi, Croatia, Cyprus, Democratic Republic of the Congo, Israel, Liberia, Mexico, Papua New Guinea, Russian Federation, Rwanda, Sudan, the former Yugoslav Republic of Macedonia and Yugoslavia. It also adopted a statement on Africa and another on the human rights of Kurdish people.

III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

ALGERIA

22. The Committee considered the thirteenth and fourteenth periodic reports of Algeria, which were due on 15 March 1997 and 1999 respectively, submitted as one document (CERD/C/362/Add.6), at its 1445th meeting (CERD/C/SR.1445), on 9 March 2001. At its 1459th meeting (CERD/C/SR.1459), on 20 March 2001, it adopted the following concluding observations.

A. Introduction

23. The Committee welcomes the thirteenth and fourteenth periodic reports as well as the additional information that the State party's delegation provided during its oral presentation and in writing, and expresses its appreciation for the opportunity to continue its dialogue with the State party. The Committee notes with appreciation that the report was more exhaustive than the previous periodic report, particularly with regard to constitutional and legal provisions.

B. Positive aspects

24. It is noted with appreciation that the State party has made the declaration under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals.

25. The Committee welcomes the fact that, pursuant to article 132 of the Constitution, international instruments that have been ratified and promulgated by the State party, including the International Convention on the Elimination of All Forms of Racial Discrimination, form part of and take precedence over norms of the State party's domestic law, and can be invoked directly before the courts.

26. The Committee welcomes the ongoing reforms with regard to the administration of justice and the setting up of the National Commission for the Reform of the Justice System by means of presidential decree No. 99-234 of 19 October 1999.

27. The Committee notes as positive the announcement by the delegation of the forthcoming establishment of the new National Advisory Commission for the Promotion and Protection of Human Rights, the members of which would include civil society organizations and half of whose membership would be women, which would coordinate closely with the National Human Rights Observatory.

28. The Committee welcomes the initiatives taken by the Government in the area of human rights education, including the establishment of a UNESCO Chair in the teaching of human rights at the University of Oran, responsible for organizing and promoting an integrated system

of human rights research, teaching, information and documentation as well as human rights training at the National Judicial Training Institute, the Police Training School and the National Prison Administration Training School.

29. The Committee appreciates the recognition in the Algerian Constitution of the Islamic, Arab and Amazigh components of Algerian identity and the efforts to introduce teaching of the Amazigh language in schools.

C. Concerns and recommendations

30. Noting the absence of statistical data on the ethnic composition of Algerian society, the Committee recommends that the State party provide an estimate on the composition of the population as requested in paragraph 8 of the reporting guidelines and, in particular, information on social indicators reflecting the situation of ethnic groups, including the Amazigh community. In this connection, the Committee draws the attention of the State party to its general recommendation VIII concerning the identification of members of particular racial and ethnic groups.

31. The Committee expresses its concern at the Law on the General Use of the Arabic Language of 5 July 1998 prohibiting the use of languages other than Arabic in various fields. While noting the statement by the delegation that the Law has not been applied in practice, the Committee urges the Government to review this law as a matter of priority, particularly in the context of the steps taken to promote the Amazigh language.

32. The Committee notes that articles 27 and 42 of the Constitution of Algeria prohibit discrimination based on race, language or religion. Nevertheless, it is concerned at the inadequate provisions in domestic legislation to address diverse aspects of racial discrimination. It thus reiterates its recommendation that the State party consider incorporating in its domestic legislation a prohibition of racial discrimination in accordance with the Convention and provisions for enforcing the prohibition.

33. While noting the efforts by the State party to amend its criminal code, notably article 298 and article 299, in accordance with the recommendations of the Committee at the examination of the eleventh and twelfth periodic reports, the Committee remains concerned about the State party's failure to comply fully with all the requirements of article 4 of the Convention and recommends that further steps be taken to accelerate the legislative review process.

34. With regard to article 5, the Committee notes that the facts and figures provided in the report concern the totality of the population and are not disaggregated. In this connection, the Committee wishes to receive detailed information on the application of the provisions of this article to the nomadic groups in the next periodic report.

35. The Committee reiterates its previous recommendation that the next periodic report of the State party contain all available information on complaints and court cases relating to racial discrimination and also information on the right of individuals to seek adequate reparation for any damage suffered as a result of such discrimination, as provided for in article 6 of the Convention.

36. The Committee notes that despite the significant steps taken by the Government to preserve and promote the Amazigh identity through the setting up of a High Commission on Amazighness, no additional information has been given on this population group, on measures taken for the protection and promotion of its culture and language or on the activities of the High Commission on Amazighness. The Committee is concerned about reports that the Commission does not function adequately and requests additional, concrete information on the functioning, membership and performance of this institution in promoting Amazigh language and culture.

37. The Committee requests the State party in its next periodic report to provide information on the role of the National Advisory Commission for the Promotion and Protection of Human Rights in monitoring the implementation of the State party's treaty obligations and on how the work of this organization and that of the National Human Rights Observatory is coordinated.

38. The Committee recommends that the State party's periodic reports be made widely available to the public from the time they are submitted and that the Committee's concluding observations be similarly publicized. In addition, all sectors of society should be informed and educated about the provisions of the Convention, including those of article 14.

39. The Committee further recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted by the Fourteenth Meeting of States Parties.

40. The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth periodic report due on 15 March 2003 and that it address the points raised in the present observations.

ARGENTINA

41. The Committee considered the fifteenth periodic report of Argentina (CERD/C/338/Add.9), which was due on 4 January 1998, at its 1439th and 1440th meetings (CERD/C/SR.1439 and 1440), on 6 and 7 March 2001. At its 1457th meeting (CERD/C/SR.1457), on 19 March 2001, it adopted the following concluding observations.

A. Introduction

42. The Committee welcomes the report submitted by Argentina and appreciates the supplementary updated information provided by the delegation orally and in writing, and also its detailed and frank answers to the questions and comments formulated by members of the Committee.

B. Factors and difficulties impeding the implementation of the Convention

43. The Committee notes that Argentina is still experiencing difficult economic circumstances which affect in particular vulnerable population groups, such as indigenous groups, and immigrants from neighbouring countries, many of whom are undocumented.

The economic situation is also responsible for budgetary constraints of government agencies charged with combating racial discrimination and taking measures in favour of the most vulnerable groups.

C. Positive aspects

44. The Committee welcomes the measures to strengthen the National Institute to Combat Discrimination, Xenophobia and Racism (INADI). It also welcomes the activities of the Institute, such as the organization of seminars to train primary and secondary school teachers to embrace pluralism, training courses for law enforcement officials and publicity campaigns in the media, and the establishment of a mechanism to receive complaints and take action thereon through mediation and intervention in the courts.

45. The Committee welcomes with satisfaction the measures designed to give greater autonomy to the National Institute of Indigenous Affairs, to build its capacity and to elaborate a national plan for indigenous peoples. It notes with interest the progress made thus far by the Institute in the context of the programme to transfer estate land to the indigenous communities that have traditionally occupied it.

46. The Committee welcomes Argentina's recent ratification of the Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169) of the International Labour Organization Convention.

D. Concerns and recommendations

47. The Committee notes that the Government's plans to conduct an updated census which would, inter alia, take into account information on membership of indigenous groups, have not been sufficiently resourced. The Committee encourages the Government to take the measures necessary to conduct the census as soon as possible.

48. The Committee notes the absence in the periodic report of detailed information concerning the representation of indigenous peoples in the civil service at the federal and provincial levels, the police, the judicial system and Congress. It also notes the lack of information on the extent to which these segments of the population enjoy economic, social and cultural rights. The Committee reiterates its request to the State party to include in its next periodic report detailed information on these aspects.

49. The Committee notes with concern a statement made by the State party that the territories in which indigenous peoples have settled coincide with the areas with the highest index of unmet basic needs, and that the poverty and unemployment indices among indigenous populations and other vulnerable groups have risen as a result of the economic crisis. The Committee recommends that the State party take steps to alleviate this situation and that it keep the Committee informed.

50. The Committee also notes with concern that, although progress has been made regarding consultation with indigenous peoples so that they may participate in decisions which affect them with a view to securing their agreement, there are still situations in which consultation and participation do not occur. The Committee recommends that the State party find ways and means to facilitate such participation.

51. The Committee further notes with concern the difficulties that arise in some cases of transferring estate land to indigenous peoples owing, primarily, to the existence of individual title deeds and to the conflict of jurisdiction between the national and the provincial governments. The Committee recalls the relevant provisions of its general recommendation XXIII and recommends that steps be taken to overcome these difficulties.

52. The Committee notes with concern the lack of a social security system which takes into account the specific needs of indigenous peoples and recommends that steps be taken in that regard.

53. The Committee is concerned at the existence of xenophobic attitudes towards immigrants, primarily those from neighbouring countries, asylum-seekers and persons of African descent. These attitudes, which are manifested even in some of the media, seem to have increased as a result of the present economic crisis and have given rise, on occasion, to violent incidents. The Committee recommends that the State party monitor such attitudes and incidents closely and take appropriate steps to deal with them.

54. The Committee notes with concern the difficulties that immigrants, primarily those from neighbouring countries, have in meeting the cost of obtaining residence papers and the lengthy and excessively bureaucratic immigration procedures, and recommends that the State party take steps to deal with this, inter alia, by offering advice free of charge. The Committee recommends, in particular, that the immigration bill currently under discussion include provisions to deal with these problems.

55. The Committee regrets the slow pace of the proceedings relating to the anti-Semitic attacks in 1992 and 1994, although it notes that progress has been made, and calls for these proceedings to be completed as soon as possible.

56. The Committee notes with concern that there have been reports of police brutality committed on a variety of pretexts, on grounds of race, colour or ethnic origin; it therefore recommends that, in the courses and seminars organized to provide human rights education for the police, the armed forces and immigration and prison officials, particular attention be given to the dissemination and implementation of the Convention.

57. The Committee notes that INADI is experiencing difficulties in covering the entire national territory with regard to receiving and handling complaints of racial discrimination and recommends that steps be taken to address this situation.

58. The Committee requests the State party to include in its next report statistical information regarding legal actions carried out in Argentina against acts of racism. It also requests information regarding the conclusions of the Ministry of Justice commission responsible for adapting domestic laws to international instruments as regards the Convention.

59. The Committee recommends that the reports of the State party be made public when they are submitted to the Committee, and that the concluding observations of the Committee thereon be widely disseminated.

60. The Committee takes note of the proceedings under way at the level of the executive organs with a view to formulating the optional declaration provided for in article 14 of the Convention and encourages the State party to complete these proceedings.

61. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention which were adopted on 15 January 1992 at the Fourteenth Meeting of States Parties.

62. The Committee recommends that the State party submit its sixteenth and seventeenth periodic reports jointly with the eighteenth periodic report on 4 January 2004, and that it address the points raised in the present observations.

BANGLADESH

63. The Committee considered the seventh, eighth, ninth, tenth and eleventh periodic reports of Bangladesh, which were due on 11 July 1992, 1994, 1996, 1998 and 2000, respectively, at its 1457th and 1458th meetings (CERD/C/SR.1457 and 1458), on 19 and 20 March 2001. At its 1462nd meeting (CERD/C/SR.1462), on 22 March 2001, it adopted the following concluding observations.

A. Introduction

64. The Committee welcomes the opportunity to resume the dialogue with the State party and appreciates the report submitted by the State party, prepared largely in accordance with the guidelines for the preparation of reports. It is noted that the report is significantly more elaborate and informative than the previous reports of the State party. The Committee further appreciates the additional information provided orally by the delegation in response to the wide range of questions asked by the Committee members.

B. Positive aspects

65. The Committee notes with interest the recent steps taken with a view to strengthening the institutional framework for the protection of human rights, i.e. the envisaged establishment of an independent National Human Rights Commission and an Office of the Ombudsman.

66. The Committee welcomes affirmative action programmes undertaken to ensure the enjoyment of the rights contained in article 5 (e) of the Convention by the socially and economically disadvantaged groups, in particular the tribal population of the Chittagong Hill Tracts.

67. The Committee appreciates the signing of the 1997 Chittagong Hill Tracts Peace Accord and the implementation of certain of its provisions, such as: (i) the creation of the Chittagong Hill Tracts Ministry; (ii) the establishment of the Chittagong Hill Tracts Regional Council; and (iii) the establishment of a Land Commission for settlement of land issues.

68. The Committee appreciates the importance accorded by the State party to the educational curriculum as a means to spread awareness of human rights among the population and, in particular, the emphasis given to the inclusion of human rights standards, as set out in the various United Nations conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination.

C. Concerns and recommendations

69. Though information has been given on representation of ethnic minorities in Parliament, the Committee notes the lack of details in the report on the demographic composition of the population. The Committee reiterates its recommendation to the State party to provide in its next report information on the composition of the population. In particular, the Committee wishes to receive disaggregated information on the economic and social status of all ethnic, religious and tribal minorities, as well as their participation in public life. Information in respect of ethnic minorities should cover not only the Chittagong Hill Tracts, but other areas of the country as well.

70. The Committee notes the information given about the constitutional prohibition of racial discrimination, but is concerned that racial discrimination as such is not explicitly and adequately prohibited and penalized in criminal law. The Committee recommends that the State party consider giving full effect to the provisions of article 4 of the Convention in its domestic legal order, to ensure penalization of acts of racial discrimination, as well as to ensure access to effective protection and remedies under article 6 of the Convention through competent national tribunals and other State institutions in addition to the High Court Division of the Supreme Court in respect of acts of racial discrimination.

71. The Committee is concerned about reports of human rights violations by security forces present in the Chittagong Hill Tracts affecting the tribal population, including reports of arbitrary arrests and detentions and ill-treatment. The Committee recommends that the State party implement effective measures to guarantee to all Bangladeshis, without distinction based on race, colour, descent, or national or ethnic origin, the right to security of person and protection by the State against violence or bodily harm.

72. Notwithstanding certain positive developments, the Committee is concerned about the slow progress in implementing the Chittagong Hill Tracts Peace Accord. The Committee urges the State party to intensify its efforts in this regard and recommends that the State party provide

in its next report details regarding, inter alia, the work of the Chittagong Hill Tracts Regional Council; the effective results of the work of the Land Commission; the repatriation and rehabilitation of refugees and internally displaced persons in the Chittagong Hill Tracts; the work of the Special Task Force on Internally Displaced Persons; the resettlement of Bengali settlers outside the Chittagong Hill Tracts pursuant to deliberations of the Land Commission and the process of withdrawal of security forces from the Chittagong Hill Tracts.

73. With regard to the interpretation of the definition of racial discrimination contained in article 1 of the Convention, the Committee considers that the term "descent" does not refer solely to race or ethnic or national origin, and is of the view that the situation of castes falls within the scope of the Convention. The Committee therefore recommends that the State party include in its next report relevant information about the enjoyment of the rights contained in article 5 of the Convention by all groups, including castes.

74. The Committee is concerned about the poor living conditions in the refugee camps for Rohingyas, and recommends that the State party suitably address the situation pertaining to refugees.

75. In view of the increasing problem of trafficking in persons, particularly women and children, in South Asia, including Bangladesh, which may entail violations of the provisions of the Convention, the Committee requests the State party to provide in its next report information on efforts made in Bangladesh to address the ethnic dimensions of migration and trafficking in persons.

76. In connection with the implementation of article 7 of the Convention, the Committee encourages the State party to continue to take steps to strengthen awareness about human rights in general, and the Convention in particular, through education. It further recommends that the State party undertake training in the provisions of the Convention in the training programmes of law enforcement officials.

77. The Committee requests the State party to provide in subsequent reports, inter alia, information about jurisprudence relating specifically to violations of the Convention, including the awarding by courts of adequate reparation for such violations.

78. The State party is also invited to provide in its next report further information on the steps towards establishing an independent national human rights commission and an office of the ombudsman.

79. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

80. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

81. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

82. The Committee recommends that the State party's next periodic report, due on 11 July 2002, addresses all points raised in the present observations.

GEORGIA

83. The Committee considered the initial report of Georgia (CERD/C/369/Add.1), which was due on 2 July 2000, at its 1453rd and 1454th meeting (CERD/C/SR.1453 and 1454), on 15 and 16 March 2001. At its 1462nd meeting (CERD/C/SR.1462), on 22 March 2001, it adopted the following concluding observations.

A. Introduction

84. The Committee welcomes the initial report submitted by the State party and the additional oral information provided as well as the opportunity thus offered to initiate a dialogue with the State party. It expresses its satisfaction with the quality of the report and its conformity with the reporting guidelines of the Committee. It notes as very positive the fact that the State party submitted the report within one year of ratification.

B. Factors and difficulties impeding the implementation of the Convention

85. The Committee recognizes that Georgia has been confronted with ethnic and political conflicts in Abkhazia and South Ossetia since independence. Owing to the lack of governmental authority, the State party has difficulty in exercising its jurisdiction with regard to the protection of human rights and the implementation of the Convention in those regions.

86. In addition, the situations in South Ossetia and Abkhazia have resulted in discrimination against people of different ethnic origins, including a large number of internally displaced persons and refugees. On repeated occasions, attention has been drawn to the obstruction by the Abkhaz authorities of the voluntary return of displaced populations, and several recommendations have been issued by the Security Council to facilitate the free movement of refugees and internally displaced persons.

C. Positive aspects

87. The Committee notes with satisfaction that, notwithstanding the difficulties resulting from conflicts in Abkhazia and South Ossetia and the challenges linked to the period of political transition, the State party has made important progress in the area of legislative reform. It notes with interest that Georgia has ratified a great number of international and regional human rights instruments.

88. The Committee also notes with satisfaction that, upon ratification, the International Convention on the Elimination of All Forms of Racial Discrimination, like other international instruments, became an integral part of the State's domestic legislation and can be invoked directly before the courts.

89. The Committee welcomes the establishment of various institutions for the promotion and protection of human rights, such as the Ombudsman and the Committee for Human Rights and Ethnic Relations. It notes with special interest the creation of the Committee on Civil Integration, which deals specifically with minority concerns. In this connection, the Committee notes with interest the statement of the delegation during the dialogue that the Committee on Civil Integration is developing a concept of civil integration in Georgia which would include laws concerning national minorities, including on language rights. The Committee equally welcomes the creation of human rights commissions in many sakrebulo (local elective bodies).

D. Concerns and recommendations

90. The Committee notes that the Constitution takes into account the provisions of article 2 of the Convention. However, the Committee regrets the lack of information provided on measures for the effective implementation of the Convention which the State party is expected to take. Furthermore, the Committee regrets that, although the report notes the condemnation of racial discrimination in all its forms by the State party, racial segregation and apartheid are not expressly condemned as stipulated by article 3 of the Convention.

91. While noting the information that the Constitution contains provisions to ensure the development and the protection of minorities and to guarantee their full and equal enjoyment of human rights and fundamental freedoms, the Committee expresses its concern at the failure of Parliament in 1994 to adopt a special law on national minorities. Taking note of the information provided by the delegation as to the aims of the Committee on Civil Integration in this regard, the Committee encourages the State party to continue to provide its utmost support to this process and to adopt legislation on minorities.

92. Concern is expressed that the legislation currently in force in Georgia does not fully cover the requirements of article 4 of the Convention. The Committee is concerned at the absence of provisions explicitly banning the advocacy of national, racial and religious hatred that constitutes incitement to discrimination, as well as racist propaganda and organizations. The Committee considers that the national legislation currently in force is not sufficient to comply with the requirements of article 4 (b), as the latter covers the offence of promoting and inciting racial discrimination which may fall short of "fomenting ethnic, local, religious or social strife" as provided for in article 5 (2) of the State party's law on political associations of citizens. The Committee emphasizes that, in the absence of the establishment of racial discrimination as a specific offence, it might not be punishable and would be difficult to prosecute. The Committee recommends that the State party take steps to ensure that national legislation is in full conformity with article 4 of the Convention.

93. With regard to article 142 (1) of the new Criminal Code, which deals with the infringement of equal rights on account of, inter alia, race, skin colour, language, sex, and national, ethnic, social or class origin, the Committee is concerned that this provision is qualified by the requirement that the infringement of equal rights result in a substantial violation of human rights. The Committee notes the statement by the delegation that serious consideration should indeed be given to reviewing this provision and encourages the State party to initiate the necessary steps.

94. The Committee recommends that the State party include in the next periodic report statistics on cases in which the relevant provisions of the Civil and Criminal Codes have been applied. The Committee reminds the State party that the absence of complaints and legal action by victims of racial discrimination could possibly be an indication of a lack of awareness of available legal remedies or a result of the absence of relevant specific legislation. It is therefore essential to provide for the relevant provisions in the national legislation and to inform the public of the availability of all legal remedies.

95. In the context of the implementation of article 5, the Committee expresses its concern at the under-representation of ethnic minorities in Parliament. The Committee notes with concern the barriers to participation of minorities in political institutions, for instance with regard to the limitation on the participation of minorities in local executive bodies owing to a lack of knowledge of the Georgian language. The Committee recommends that the State party take all necessary steps in order to increase the representation of national minorities in Parliament and in local bodies.

96. The Committee notes the commitment undertaken by the State party to repatriate Meskhetians who had been expelled from southern Georgia to the Central Asian republics of the Soviet Union. The Committee recommends that the State party take the necessary measures to facilitate the return of Meskhetians and the acquisition of citizenship by them.

97. Expressing its satisfaction at the positive measures taken by the State party to establish national human rights institutions, the Committee requests that, in its next periodic report, the State party provide additional information on the role, responsibilities and achievements of national institutions such as the Commission on Civil Integration, the Committee for Human Rights and Ethnic Relations and the Ombudsman in monitoring treaty obligations and, in particular, with regard to activities for the integration of minorities and the promotion of human rights.

98. The Committee notes the absence of provisions with regard to stateless persons and encourages the State party to take appropriate measures to remedy this situation.

99. The Committee recommends to the State party that its reports and the present concluding observations be widely distributed to the public. The Committee also recommends the dissemination of the text of the Convention and the organization of education and training programmes aimed at all sectors of society, especially law enforcement officials, regarding human rights in general and the provisions of the Convention in particular.

100. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of making such a declaration be considered.

101. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties.

102. The Committee also recommends that the State party submit its second periodic report jointly with its third periodic report, due on 2 July 2004, and that it address all of the points raised during the consideration of the initial report.

GERMANY

103. The Committee considered the fifteenth periodic report of Germany (CERD/C/338/Add.14) at its 1426th and 1427th meetings, on 13 and 14 March 2001 (CERD/C/SR.1426 and 1427), and at its 1460th meeting (CERD/C/SR.1460), on 21 March 2001, adopted the following concluding observations.

A. Introduction

104. The Committee welcomes the very detailed report presented by the Government of Germany, which follows the Committee's guidelines and contains relevant information about the implementation of the provisions of the Convention in the State party. The Committee is also grateful for the relevant additional and updated information that was transmitted during presentation of the report.

105. The Committee particularly appreciated the delegation's frankness and sincerity during the presentation of the report, and its acknowledgement of the difficulties faced by the State party in the implementation of the Convention.

B. Positive aspects

106. The Committee welcomes recent developments that have taken place in the field of human rights. It noted in particular the creation of the independent German Institute of Human Rights, the setting up by the Federal Parliament of a Human Rights Committee as well as the publication of the Federal Government's biannual Human Rights Report, which in the future will give more attention to the internal human rights issues.

107. With regard to the implementation of article 4 of the Convention and the fight against racist organizations and propaganda, the Committee welcomes the information provided by the State party that since its previous report additional extreme right-wing associations have been banned. In this regard, the Committee also notes the efforts made by the Government, as well as by the Federal Council and the Federal Parliament, to bring the important and delicate issue of the constitutionality of the National Democratic Party of Germany (NPD) before the German

Constitutional Court. Finally, the Committee is pleased to see that measures taken by the State party in order to combat racial propaganda are being implemented effectively, leading to the conviction by the judicial authorities of approximately 900 people during 1998.

108. The Committee also welcomes the establishment of three new special programmes aimed at combating racism and xenophobia among young people: "Xenos-living and working in diversity", "Measures against violence and right-wing extremism" and "Promotion of model projects against right-wing violence in the new Länder".

109. The Committee notes with satisfaction the improvements brought by the recent reform of the nationality law and, particularly, the partial incorporation of the principle of jus soli and the expanding of exceptions to the principle prohibiting multiple nationalities when, for instance, giving up a previous nationality would bring considerable disadvantages to the person applying for German nationality.

110. The Committee notes the establishment of the Foundation for the compensation of persons subjected to forced labour and welcomes the fact that this foundation will also be of benefit to Sintis and Roma populations.

111. The Committee appreciates the readiness of the delegation to answer a great variety of questions concerning, inter alia, the State party's response to the concerns of developing countries with respect to the high prices of medicines for persons living with HIV/AIDS.

C. Concerns and recommendations

112. The Committee shares the State party's particular concern that despite appropriate actions undertaken and significant improvements to the various means to prevent and punish right-wing extremist, xenophobic and anti-Semitic crimes, the number of racist-related incidents, which had more or less stagnated during the 1990s, suddenly and dramatically increased during the year 2000. While welcoming the work that has already been accomplished to identify the specific causes of this phenomenon, the Committee encourages the State party to reinforce its efforts to prevent and combat such acts, including through further studies and research, in order to understand fully the reasons for the recent increase in racial violence and to devise appropriate measures.

113. The Committee is further concerned by repeated reports of racist incidents in police stations as well as ill-treatment inflicted by law enforcement officials on foreigners, including asylum-seekers, and German nationals of foreign origin. Although the number of these incidents has diminished recently, the Committee urges the State party to strengthen existing educational measures for civil servants who deal with issues involving foreigners, including asylum-seekers, and German nationals of foreign origin.

114. Concerned at the increase in racist propaganda on the Internet and that this trend is likely to become more significant in the future, the Committee encourages the State party to seek further solutions in order to tackle this problem.

115. While noting that the State party has recognized minorities that have been settled in Germany for a long time, the Committee draws the attention of the State party to general recommendation XXIV of the Committee.

116. The State party is invited in its next report to provide further information on the following issues: (a) updated information on the number of persons of foreign origin in the police forces; (b) information on the new draft anti-discrimination legislation in the field of both civil and labour law; (c) updated information on the numbers of persons who have been convicted following racist incidents.

117. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

118. Noting that the State party's report has been made readily available to the public from the time it was submitted, the Committee recommends that its concluding observations be similarly publicized. It encourages the State party to place the concluding observations on the appropriate ministry's Web site.

119. The Committee recommends that the State party submit its sixteenth and seventeenth periodic reports jointly with its eighteenth periodic report, due on 15 June 2004, and that it address the points raised in the present observations.

GREECE

120. The Committee considered the twelfth, thirteenth, fourteenth and fifteenth periodic reports of Greece, submitted as one document (CERD/C/363/Add.4), at its 1455th and 1456th meetings (CERD/C/SR.1455 and 1456), on 16 March and 19 March 2001, respectively. At its 1462nd meeting (CERD/C/SR.1462), on 22 March 2001, it adopted the following concluding observations.

A. Introduction

121. The Committee welcomes the report submitted by the State party, and expresses its appreciation for the additional written information provided in February 2001 and the oral information provided by the delegation. It particularly appreciates the opportunity to resume a positive and constructive dialogue with the State party.

122. The Committee notes the valuable information contained in the report, prepared in accordance with the Committee's guidelines for the form and content of periodic reports, and welcomes the fact that the report addresses a number of the concerns and recommendations of the Committee's concluding observations on the eighth, ninth, tenth and eleventh periodic reports (CERD/C/210/Add.1).

B. Positive aspects

123. The Committee is encouraged by the self-critical approach of the State party's report and by the commitment of the State party to the International Convention on the Elimination of All Forms of Racial Discrimination.

124. The Committee notes that since the submission of its last report the State party has ratified a range of international human rights instruments and has signed - although not yet ratified - the Council of Europe Framework Convention for the Protection of National Minorities.

125. The Committee welcomes the information provided in the report and by the delegation concerning the extent to which courts and other tribunals and administrative authorities give direct effect to the provisions of international human rights instruments in their decisions, and the attention given by courts to the case law of international judicial or quasi-judicial bodies when interpreting human rights instruments.

126. The Committee welcomes the establishment of national machinery with responsibility for overseeing the implementation of human rights, and notes in particular the diverse and pluralistic structure of the national commission on human rights established by Law 2667/1998. The Committee also notes the important role of the National Radio and Television Council, the Code of Journalistic Ethics, and the draft code of ethics for information and other journalistic and political programmes in preventing racial discrimination and racist and xenophobic behaviour and stereotyping in the mass media.

127. The Committee welcomes the measures taken by the State party to date aimed at promoting effective equality among individuals, with particular attention to Roma people, migrant workers, refugees and asylum-seekers and the minority populations in Western Thrace.

128. The Committee notes the information provided by the State party according to which members of minority groups participate in the political life of the country at the national and municipal levels.

129. Consistent with the State party's expressed desire to integrate - rather than assimilate - minority groups into the social, economic and cultural life of the country, in a manner aimed at preserving their diverse cultures and identities, the Committee welcomes the information provided by the State party concerning the implementation of educational programmes aimed at the teaching of the Greek language to students with a different mother tongue and the training of teachers in the teaching of Greek as a second language.

130. The Committee welcomes the information provided by the State party on the extent to which it has implemented to date general recommendation XIII, concerning training of law enforcement officials in the protection of human rights.

C. Concerns and recommendations

131. While noting that the report of the State party refers to the "Muslim minority of Western Thrace", and within this to Turkish, Pomak and Roma groups, and not to other ethnic groups in the country, the Committee draws the attention of the State party to its general recommendations VIII on the right of each person to self-identification and XXIV concerning article 1 of the Convention in this regard.

132. The Committee encourages the State party to build upon its education programmes at all levels in order to counter negative stereotypes and promote the objectives of the Convention. The Committee recommends that the State party take into account the Committee's general recommendation XXVII concerning Roma in further legal and policy initiatives.

133. The Committee encourages the State party to pursue further its dialogues with representatives of the Roma, Pomak, Albanian and other minority populations, with a view to expanding as necessary the available range of multilingual educational programmes and policies.

134. Recalling the repeal in 1998 of article 19 of the Citizenship Code and mindful of the clear incompatibility of this repealed law with the Convention, the Committee recommends that the State party explore and implement appropriate remedies, including the possibility of reinstatement of citizenship, for the benefit of persons deprived of their citizenship under article 19 in the past.

135. The Committee recommends that the next periodic report provide information on the demographic composition of the population.

136. The Committee recommends that the State party include in its next periodic report statistics on cases where the relevant provisions of the Civil and Penal Code have found application.

137. The Committee recommends that the State party take further measures to increase the awareness of the principles of the Convention by law enforcement officials.

138. The Committee recommends that the Convention, the State party's report and these concluding observations be widely disseminated by the State party, including among minority populations.

139. The Committee welcomes the stated intention of the State party to make the optional declaration as soon as possible under article 14 of the Convention and encourages it to take steps in that regard.

140. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention which were adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

141. The Committee recommends that the State party submit its sixteenth periodic report jointly with its seventeenth periodic report, due on 18 July 2003, and that it address the points raised in the present observations.

ICELAND

142. The Committee considered the fifteenth and sixteenth periodic reports of Iceland (CERD/C/338/Add.10 and CERD/C/384/Add.1) at its 1441st meeting (CERD/C/SR.1441), on 7 March 2001. At its 1454th meeting (CERD/C/SR.1454), on 16 March 2001, it adopted the following concluding observations.

A. Introduction

143. The Committee welcomes the reports submitted by the State party, commends the State party for its regular submission of periodic reports and expresses its appreciation for the additional oral information provided by the delegation. The Committee notes the valuable information contained in the reports, which were prepared in accordance with the Committee's guidelines. The fifteenth and sixteenth reports are updating reports describing developments that took place after the period covered by the fourteenth report.

144. The Committee notes that, while providing information that the Committee had requested on the ethnic composition of the population and on naturalization laws, the fifteenth and sixteenth reports contained only limited information with respect to most of the concerns and recommendations contained in the Committee's concluding observations on the fourteenth periodic report (CERD/C/304/Add.27).

B. Positive aspects

145. The Committee is encouraged by the commitment of the State party to the Convention. It notes with appreciation the State party's positive efforts with regard to the prevention of ethnic discrimination and to ensure equal rights and protection from discrimination for the growing immigrant and foreign-born population.

146. The Committee notes again that the 1995 amendment to the Constitution provided extensive additions to human rights provisions, bringing them more into conformity with international human rights norms. It welcomes the information provided in the sixteenth report and by the delegation about the extent to which courts refer to the human rights treaties to interpret the constitutional provisions.

147. The Committee commends the State party for publishing its reports and the concluding observations of the Committee on the Internet home page of the Ministry of Justice and for distributing them to the media, which facilitates and stimulates growing public interest in and debate of human rights issues.

148. The Committee welcomes the establishment of a new centre for immigrants in the Western Fjords which will start operating in March 2001, and the preparations for the transformation of the Information and Cultural Centre for Foreigners in Reykjavik into an International House with expanded programmes and activities, particularly to assist immigrants and other foreigners in the study of their own language.

149. The Committee welcomes the introduction of new curricula for nursery and primary schools, with increased attention to the role of schools in facilitating the integration of children from different cultural backgrounds without the loss of their ties to their own culture. It notes also the emphasis on the promotion of tolerance and the recognition of the need to provide students from different linguistic backgrounds with special education in Icelandic, to address educational and employment disparities.

150. The Committee notes the information provided in the sixteenth report on the complex provisions of the Icelandic Naturalization Act and other relevant legislation. It welcomes the 1998 amendment to address the unequal rights of men and women with regard to the naturalization of their children, and the elimination of the requirement to adopt an Icelandic patronym as a condition for naturalization.

151. The Committee expresses its appreciation for the acceptance by the State party of refugees for resettlement, and notes the success of its family support system in facilitating integration of refugees.

152. The Committee welcomes the Government's decision of July 2000 to ratify the amendments to article 8, paragraph 6, of the Convention adopted at the Fourteenth Meeting of States Parties.

C. Concerns and recommendations

153. The Committee recommends that the State party investigate fully the possible existence of associations advocating racial discrimination and take appropriate action under section 233a of the General Penal Code and article 74 of the Constitution, as well as review its legislation if it proves insufficient to enforce fully the provisions of article 4 of the Convention. The Committee also recommends that the State party ensure that the provisions of the Convention are fully reflected in existing legislation and that it give further consideration to the possibility of giving the Convention legal force in the Icelandic legal system, as is the case for the European Convention on Human Rights.

154. The Committee notes that few incidents of racial discrimination are recorded by the police. The Committee recommends that the State party review carefully the allegations of racial insults and threats suffered by immigrants and that it consider additional ways to encourage the formulation of formal complaints in such cases, including publicizing the State party's declaration under article 14 of the Convention.

168. The Committee is concerned that the only provision in the legislation of the State party relevant to the Convention is article 14 of the Constitution. Taking into account the fact that the Convention is not self-executing, the Committee believes it necessary to adopt specific legislation to outlaw racial discrimination, in particular in conformity with the provisions of articles 4 and 5 of the Convention.

169. The Committee notes the reservation maintained by the State party with respect to article 4 (a) and (b) of the Convention, stating that "Japan fulfils the obligations under those provisions to the extent that fulfilment ... is compatible with the guarantee of the rights to freedom of assembly, association and expression and other rights under the Constitution of Japan". The Committee expresses concern that such an interpretation is in conflict with the State party's obligations under article 4 of the Convention. The Committee draws the attention of the State party to its general recommendations VII and XV, according to which article 4 is of mandatory nature, given the non-self-executing character of all its provisions, and the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the rights to freedom of opinion and expression.

170. Regarding the prohibition of racial discrimination in general, the Committee is further concerned that racial discrimination as such is not explicitly and adequately penalized in criminal law. The Committee recommends the State party to consider giving full effect to the provisions of the Convention in its domestic legal order and to ensure the penalization of racial discrimination as well as the access to effective protection and remedies through the competent national tribunals and other State institutions against any acts of racial discrimination.

171. The Committee notes with concern statements of discriminatory character made by high-level public officials and, in particular, the lack of administrative or legal action taken by the authorities as a consequence in violation of article 4 (c) of the Convention and the interpretation that such acts can be punishable only if there is an intention to incite and promote racial discrimination. The State party is urged to take appropriate measures to prevent such incidents in the future and to provide appropriate training of, in particular, public officials, law enforcement officers and administrators with a view to combating prejudices which lead to racial discrimination, in compliance with article 7 of the Convention.

172. The Committee is concerned about reports of violent actions against Koreans, mainly children and students, and about the inadequate reaction of the authorities in this regard and recommends that the Government take more resolute measures to prevent and counter such acts.

173. With regard to children of foreign nationality residing in Japan, the Committee notes that elementary and lower secondary education is not compulsory. It further notes the position of the State party that "since the purpose of the primary education in Japan is to educate the Japanese people to be members of the community, it is not appropriate to force foreign children to receive that education". The Committee concurs with the proposition that force is completely inappropriate to secure the objective of integration. However, with reference to articles 3 and 5 (e) (v), the Committee is concerned that different standards of treatment in this respect may lead to racial segregation and the unequal enjoyment of the right to education, training and employment. It is recommended that the State party ensure that the relevant rights contained in article 5 (e) are guaranteed without distinction as to race, colour, or national or ethnic origin.

174. The Committee is concerned about discrimination affecting the Korean minority. Though efforts are being made to remove some of the institutional obstacles to minority students from international schools, including Korean schools, entering Japanese universities, the Committee is particularly concerned that studies in Korean are not recognized and that resident Korean students receive unequal treatment with regard to access to higher education. It is recommended that the State party undertake appropriate measures to eliminate discriminatory treatment of minorities, including Koreans, in this regard and to ensure access to education in minority languages in public Japanese schools.

175. The Committee recommends that the State party take steps to further promote the rights of the Ainu, as indigenous people. In this regard the Committee draws the attention of the State party to its general recommendation XXIII on the rights of indigenous peoples that calls, inter alia, for the recognition and protection of land rights as well as restitution and compensation for loss. The State party is also encouraged to ratify and or use as guidance ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries.

176. Noting that although Koreans applying for Japanese nationality are no longer required legally or administratively, to change their names to a Japanese name, the Committee expresses its concern that authorities reportedly continue to urge applicants to make such changes and that Koreans feel obliged to do so for fear of discrimination. Considering that the name of an individual is a fundamental aspect of the cultural and ethnic identity, the Committee recommends that the State party take the necessary measures to prevent such practices.

177. The Committee, while noting the recent increase in the number of refugees accepted by the State party, is concerned that different standards of treatment are applicable to Indo-Chinese refugees, on the one hand, and the limited number of refugees of other national origins on the other. Whereas Indo-Chinese refugees have access to accommodation, financial aid and State-funded Japanese language courses, such assistance is as a rule not available to other refugees. The Committee recommends that the State party take the necessary measures to ensure equal entitlement to such services to all refugees. In this context, it is also recommended that the State party ensure that all asylum-seekers have the right, inter alia, to an adequate standard of living and medical care.

178. The Committee is concerned that the national redress law offers remedies only on the basis of reciprocity, which is inconsistent with article 6 of the Convention.

179. The Committee requests the State party to provide in subsequent reports, inter alia, information on jurisprudence relating specifically to violations of the Convention, including the awarding by courts of adequate reparation for such violations.

180. The Committee recommends that the next State party report contain socio-economic data disaggregated by gender and national and ethnic group and information on measures taken to prevent gender-related racial discrimination, including sexual exploitation and violence.

181. The State party is also invited to provide in its next report further information on the work and powers of the Council for Human Rights Promotion and on the impact of: (i) the 1997 Law for the Promotion of Measures for Human Rights Protection; (ii) the 1997 Law for the

Promotion of the Ainu Culture and for the Dissemination of and Advocacy for their Traditions; (iii) the Law Concerning Special Government Financial Measures for Regional Improvement Special Projects and envisaged strategies to eliminate discrimination against Burakumi after the law ceases to apply, i.e. in 2002.

182. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

183. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

184. The Committee recommends that the State party's reports continue to be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

185. The Committee recommends that the State party submit its third periodic report jointly with its fourth periodic report, due on 14 January 2003, and that it address all points raised in the present observations.

PORTUGAL

186. The Committee considered the ninth periodic report of Portugal (CERD/C/357/Add.1) at its 1447th and 1448th meetings (CERD/C/SR.1447 and 1448), on 12 and 13 March 2001. At its 1461st meeting (CERD/C/SR.1461), on 21 March 2001, it adopted the following concluding observations.

A. Introduction

187. The Committee welcomes the updating report of Portugal, submitted less than one year after the consideration of the fifth to eighth periodic reports, as well as the supplementary written and oral information provided by the delegation. The Committee expresses its appreciation for the constructive and frank dialogue it had with the State party.

B. Positive aspects

188. The Committee welcomes the enactment of Decree Law 4/2001 modifying the regulations on the entry, stay and departure of foreigners with a view to, inter alia, introducing penal legislation against the illegal trafficking of migrant workers as well as an enlarged definition of the beneficiaries of family reunification.

189. The Committee also welcomes the enactment of Act No. 134/99 and corresponding Decree Law 111/2000 prohibiting discrimination in the exercise of rights on grounds of race, colour, nationality or ethnic origin, which contains a non-exhaustive list of discriminatory practices and provides for administrative sanctions for conduct coming under that list. It also welcomes the establishment of the Commission for Equality and against Racial Discrimination.

190. The Committee welcomes the establishment of the Consultative Council on questions of immigration and the participation in it of representatives of immigrants' associations.

191. The Committee notes with appreciation that, contrary to previous legislation, Act No. 20/98 of 12 May allows employers to employ freely any worker residing legally in Portugal, regardless of nationality.

192. The Committee welcomes the information provided by the State party about the sentences handed down by the competent courts in the case of the demolition of Gypsy dwellings in Vila Verde.

C. Concerns and recommendations

193. The Committee notes with concern that incidents of racial discrimination and xenophobia do occur in the State party and recommends that the authorities continue to monitor such incidents closely and take appropriate steps to deal with them.

194. The Committee notes the lack of detailed information in the periodic report about the number of complaints of racial discrimination brought before the Portuguese courts as well as the corresponding decisions, and recommends that the next report include information in this respect. That report should also include information about the cases dealt with by the Commission for Equality and against Racial Discrimination.

195. The Committee notes with concern that, in some industrial and services sectors where illegal migrant workers are engaged, they are discriminated against. It recommends that the State party take measures to put an end to this discrimination.

196. The Committee notes that the report does not contain detailed information about the effective enjoyment by ethnic groups, including refugees, foreign workers, Gypsies (Roma) and citizens who obtained Portuguese nationality following the independence of former colonies, of the rights contained in article 5 of the Convention. The Committee draws the State party's attention to general recommendation XX and recommends that the next periodic report include information in that respect, in particular about the socio-economic situation of the above-mentioned groups.

197. The Committee recommends that the State party take measures to inform the population in general, and the most vulnerable groups in particular, about the possibility of bringing complaints before the Commission for Equality and against Racial Discrimination.

198. The Committee recommends that, in its next periodic report, the State party provide information on the demographic composition of the population, in accordance with paragraph 8 of the Committee's reporting guidelines.

199. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized. It also recommends the adoption of measures to inform the public about the acceptance by Portugal of article 14 of the Convention.

200. The Committee recommends that the State party submit its tenth periodic report jointly with the eleventh periodic report, due on 23 September 2003, and that it address the points raised in these concluding observations.

SUDAN

201. The Committee considered the ninth, tenth and eleventh periodic reports of the Sudan, which were due on 20 April 1994, 1996 and 1998, respectively, submitted as one document (CERD/C/334/Add.2), at its 1451st and 1452nd meetings (CERD/C/SR.1451 and 1452), on 14 and 15 March 2001. At its 1460th meeting (CERD/C/SR.1460), on 21 March 2001, it adopted the following concluding observations.

A. Introduction

202. The Committee welcomes the submission of the State party's report and appreciates the opportunity to continue its dialogue with the State party, in a spirit of constructiveness. While noting that the report was not adequately prepared in accordance with the guidelines for the preparation of reports, the Committee expresses its appreciation for the additional oral and written information provided by the delegation in response to the wide range of questions asked by Committee members.

B. Positive aspects

203. The Committee notes with interest the State party's increasing willingness to cooperate with some of the United Nations and international agencies and non-governmental organizations in the field of human rights, including on matters relating to racial discrimination.

204. The Committee welcomes the fact that international treaties ratified by the State party form part of domestic law and that treaties take precedence over national legislation in case of conflict.

205. The Committee welcomes the adoption by national referendum of the 1998 Constitution and commends the fact that the Constitution recognizes the cultural diversity of the Sudan. In this regard, the Committee notes the efforts by all parties to implement constitutional decree 14 of 1997 (Khartoum Peace Agreement), ending with a general referendum in the south on the question of unity or separation.

206. The Committee welcomes the efforts made by the State party to put into place a legislative framework, based on the common law system, to ensure the protection of constitutional rights and freedoms and, in particular, the 1998 amendment to the Criminal Act making racial discrimination a specific crime.

207. The Committee commends the development of some institutional structures to guarantee the objectives of the Constitution, including the Constitutional Court, the Office of the Ombudsman and the Advisory Council for Human Rights.

C. Factors and difficulties impeding the implementation of the Convention

208. The Committee bears in mind the long-lasting and ongoing civil war, fuelled by a complexity of issues relating to ethnicity, race, religion and culture, involving violations of human rights by all parties to the armed conflict. Massive loss of life, destruction of property, abductions, a decline in financial and material resources and political conflict overshadow all efforts made by the State party to implement the Convention.

D. Concerns and recommendations

209. While noting certain information given orally by the delegation, particularly the socio-economic indicators relating to women and children, the Committee regrets the lack of details in the report concerning the demographic composition of the population. The Committee recommends that the State party provide in its next report detailed information on the composition of the population, as requested in the reporting guidelines of the Committee. In particular, the Committee wishes to receive information on the economic and social status of all ethnic and religious minorities, disaggregated by gender, and any other groups covered by the scope of the Convention, as well as on their participation in public life.

210. With regard to articles 4, 5 and 6 of the Convention, the Committee recommends that the State party continue its efforts to establish a domestic legal order giving full effect to the provisions of the Convention and to ensure effective and equal access to remedies through the competent national tribunals and other State institutions against any acts of racial discrimination and related intolerance.

211. The Committee further reiterates its recommendations to the State party contained in its decision 5 (54) of 19 March 1999,[4] inter alia to implement immediately effective measures to guarantee all Sudanese, without distinction based on race, colour, descent, or national or ethnic origin, freedom of religion, opinion, expression and association; the right to security of person and protection by the State against violence or bodily harm; the right to study and communicate in a chosen language; and the right to enjoy their own culture without interference.

212. The Committee repeats its concern over continuous reports and allegations regarding the abduction by armed militia of, primarily, women and children belonging to other ethnic groups. In this regard, it notes that the State party, while disassociating itself from any such practices, attributes abduction to traditions deeply rooted among certain tribes. Notwithstanding this position, the Committee strongly emphasizes the State party's responsibility to undertake all measures to bring the practice of abduction to an end and to ensure that legal action is taken against those responsible for such acts, and compensation given to those aggrieved.

213. The Committee is deeply concerned about the forced relocation of civilians from the Nuer and Dinka ethnic groups in the Upper Nile region and reports that the relocations involved significant military force resulting in civilian casualties. The Committee urges the State party to uphold the fundamental economic and social rights of the Nuer and Dinka in the Upper Nile region, including the rights to personal security, to housing, to food, and to just compensation for property confiscated for public use.

214. The Committee remains concerned about the large number of internally displaced communities within the territory of the State party, as a result of the civil war and natural disasters. The Committee reiterates its recommendation that the State party consider giving effect to the provisions of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) of the Special Representative of the Secretary-General on internally displaced persons and implementing the right to free return of all displaced persons to their homes of origin under conditions of safety. It further urges the State party to do everything in its power to achieve peaceful settlement of the war, which undermines efforts at combating ethnic, racial and religious discrimination.

215. The Committee notes that different standards of treatment are reportedly used for different categories of asylum-seekers: whereas asylum-seekers from mainly neighbouring countries to the east, west and south, except Chad, are granted refugee status, asylum-seekers from Arab countries are allowed to stay on an informal and unofficial basis. The Committee recommends that the State party apply international and regional standards pertaining to refugees equally, regardless of the nationality of the asylum-seeker.

216. The Committee invites the State party to provide in its subsequent report, inter alia, information on cases pertaining specifically to violations of the Convention, on the activities of the Office of the Ombudsman and the Advisory Council for Human Rights, and on the results of the work of the Committee for the Eradication of Abductions of Women and Children.

217. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

218. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of making such a declaration be considered.

219. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties.

220. The Committee recommends that the State party submit its twelfth periodic report jointly with its thirteenth periodic report, due on 20 April 2002, and that it address all the points raised in the present observations.

GAMBIA

221. At its 1463rd meeting, on 22 March 2001 (see CERD/C/SR.1463), the Committee reviewed the implementation of the Convention by Gambia based upon the concluding observations[5] of its initial report (CERD/C/61/Add.3) in 1980 and previous reviews[6] of the implementation of the Convention in 1991 and 1996. The Committee noted with regret that no report had been submitted to the Committee since 1980.

222. The Committee regretted that Gambia had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Gambia setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should resume as soon as possible.

223. The Committee suggested that the Government of Gambia avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights, with the aim of drawing up and submitting as soon as possible a report drafted in accordance with the reporting guidelines.

SIERRA LEONE

224. At its 1463rd meeting, on 22 March 2001 (CERD/C/SR.1463), the Committee reviewed the implementation of the Convention by Sierra Leone based upon the concluding observations[7] on its second periodic report in 1973 (CERD/C/R.30/Add.43) and additional information in 1974 (CERD/C/R.30/Add.46) and previous reviews of the implementation of the Convention in 1991[8] and 1995.[9] The Committee noted with regret that no report had been submitted to the Committee since 1974.

225. The Committee regretted that Sierra Leone had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Sierra Leone setting out its reporting obligations under the Convention and urging that the dialogue with the Committee resume as soon as possible.

226. The Committee suggested that the Government of Sierra Leone avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights, with the aim of drawing up and submitting as soon as possible a report drafted in accordance with the reporting guidelines.

TOGO

227. At its 1442nd meeting, on 8 March 2001 (CERD/C/SR.1442), the Committee reviewed the implementation of the Convention by Togo based upon its previous review[10] of the implementation of the Convention. The Committee noted with regret that no report had been submitted to the Committee since 1981.

228. The Committee regretted that Togo had for the third time not responded to its invitation to participate in the meeting and to furnish relevant information.

229. The Committee noted that the Government of Togo had transmitted a full response to the questionnaire distributed by the High Commissioner for Human Rights in accordance with Commission on Human Rights resolution 1999/78 on racism, racial discrimination, xenophobia and related intolerance and that it had benefited in 1996 from a programme of technical

assistance of the Office of the High Commissioner for Human Rights (then Centre for Human Rights). The Committee suggested that the Government avail itself again of the technical assistance offered by the Office of the High Commissioner for Human Rights, with the aim of drawing up and submitting a report by January 2002, drafted in accordance with the reporting guidelines.

230. The Committee decided that a communication should be sent to the Government of Togo setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should resume as soon as possible.

CHINA

231. The Committee considered the eighth and ninth periodic reports of China (CERD/C/357/Add.4, Parts I, II and III), which were due on 28 January 1997 and 28 January 1999, respectively, submitted as one document, at its 1468th and 1469th meetings (CERD/C/SR.1468 and 1469), on 31 July and 1 August 2001. The eighth and ninth periodic reports of China consist of three separate parts. Part I covers the whole of China, with the exception of the Hong Kong and Macau Special Administrative Regions, which are covered by Part II and Part III respectively. At its 1480th and 1481st meetings (CERD/C/SR.1480 and 1481), on 8 and 9 August 2001, it adopted the following concluding observations.

A. Introduction

232. The Committee welcomes the opportunity to continue its dialogue with the State party, including with representatives from the Hong Kong and Macau Special Administrative Regions. The Committee was encouraged by the attendance of a large delegation representing important governmental departments as well as the Hong Kong and Macau Special Administrative Regions.

233. The Committee welcomes the detailed and comprehensive report submitted by the State party, the contents of which correspond with the Committee's guidelines for the preparation of reports. The additional oral information provided by the delegation in response to the wide range of questions asked by Committee members is also appreciated.

234. In view of the dialogue held, the Committee wishes to emphasize that irrespective of the relationship between the central authorities and the special administrative regions, and the principle "One Country, Two Systems", the People's Republic of China, as the State party to the Convention, has the responsibility to ensure its implementation on its entire territory.

235. The Committee acknowledges the difficulties inherent in policy-making and administration, including the standardization of essential services, of a territory as vast as China with more than 1.2 billion inhabitants, including 55 minority nationalities.

B. Positive aspects

236. The Committee welcomes the efforts made by the State party to promote economic and social development in economically backward regions inhabited largely by minority populations, including Inner Mongolia, Guangxi, Tibet, Xinjiang, Guizhou, Yunnan and Qinhai. The Committee notes in particular the investments in infrastructure development and the creation of poverty alleviation projects financing the construction of primary schools in western China.

237. The Committee notes with interest the existence and functions of the State Ethnic Affairs Commission created under the State Council as the department in charge of ethnic affairs as well as the fact that the Commission should be headed by a person belonging to an ethnic minority.

238. The Committee notes that as a result of its previously expressed concerns and recommendations, the recently conducted 2001 Population Census in the Hong Kong Special Administrative Region included questions which would help to determinate the ethnic and racial composition of the region and allow for the identification of minority groups and an analysis of their political, economic and social situation.

239. The Committee welcomes the extensive consultation with civil society in the preparation of, in particular, the part of the State party's report pertaining to the Hong Kong Special Administrative Region and the indication by the delegation that projects are already under way in that region to address some of the problems identified by non-governmental organizations during those consultations, such as the provision of language training for immigrants, mainly of Nepalese, Pakistani and Bangladeshi origin.

240. The Committee notes article 25 of the Basic Law of the Special Administrative Region of Macau, giving a constitutional right to all Macau residents to be free from discrimination, irrespective of, inter alia, their nationality, descent, race, sex, language or religion.

C. Concerns and recommendations

241. With regard to the interpretation of the definition of racial discrimination, the Committee notes that according to article 4 of the Constitution "all nationalities in the People's Republic of China are equal. The State protects the lawful rights and interests of the minority nationalities ...". In view of this provision, the Committee seeks clarification with regard to existing guarantees against discrimination on all grounds referred to in article 1 of the Convention, i.e. race, colour, descent, or national or ethnic origin, and recommends that the State party review its legislation to ensure the adoption of a definition of discrimination in accordance with the Convention.

242. With regard to the implementation of articles 2 and 4 of the Convention, the Committee notes the prohibition of the "incitement of national enmity or discrimination" by any organization or individual provided by articles 149 and 250 of the 1997 Criminal Law of the People's Republic of China. However, the Committee recalls that the stipulated requisites of serious or flagrant circumstances or consequences are not in accordance with the Convention.

Regarding the prohibition of racial discrimination in general, the Committee recommends that the State party consider giving full effect to the provisions of the Convention in its domestic legal order and ensure the penalization of racial discrimination, as well as access to effective protection and remedies through the competent national tribunals or other State institutions against all acts of racial discrimination.

243. The Committee notes that economic development in minority regions does not, ipso facto, entail the equal enjoyment of economic, social and cultural rights in accordance with article 5 (e) of the Convention. The State party is requested to provide further information on the enjoyment of economic, social and cultural rights by all nationalities of China and regarding steps taken to ensure that the minority population benefits from the general economic growth. In this context, the State party is requested to take all appropriate measures to ensure that the local and regional cultures and traditions are also promoted and the rights of the populations fully respected.

244. While noting the State party's information in this regard, some members of the Committee remain concerned with regard to the actual enjoyment of the right to freedom of religion by people belonging to national minorities in the State party, particularly in the Muslim part of Xinjiang and in Tibet. The Committee recalls that a distinctive religion is integral to the identity of several minorities and urges the State party to review legislation and practices that may restrict the right of persons belonging to minorities to freedom of religion.

245. While recognizing efforts made, which have resulted in an increased number of schools and a decrease of illiteracy in minority regions, the Committee is concerned about continuous reports of discrimination with regard to the right to education in minority regions, with particular emphasis on Tibet, and recommends that the State party urgently ensure that children in all minority areas have the right to develop knowledge about their own language and culture as well as the Chinese, and that they are guaranteed equal opportunities, particularly with regard to access to higher education.

246. While noting the State party's efforts to facilitate integration and naturalization of Indo-Chinese refugees in mainland China, the Committee is concerned that different standards of treatment are applied to Indo-Chinese asylum-seekers, on the one hand, and asylum-seekers of other national origins on the other, notably with regard to the right to work and education. Particular concern is expressed regarding the treatment of asylum-seekers from the People's Democratic Republic of Korea, who are reportedly systematically refused asylum and returned, even in cases when they have been considered to be refugees by UNHCR. The Committee recommends that the State party take the necessary measures to ensure that all refugees and asylum-seekers receive equal treatment. To this end, the Committee recommends that the State party consider pursuing the adoption of formal legislative or administrative provisions in order to implement objective criteria for the determination of refugee status.

247. With reference to article 2, paragraph 1 (d), of the Convention, the Committee takes note of ongoing consultations, but reiterates its concern about the continued absence in the Hong Kong Special Administrative Region of legal provisions protecting persons from racial

discrimination to which they may be subjected by private persons, groups or organizations. The Committee does not accept the argument put forward for not initiating such legislation, i.e. that such legislation would not be supported by the society as a whole. It is recommended that the Government of the State party and the local authorities of the Hong Kong Special Administrative Region review the existing unsatisfactory situation thoroughly and that appropriate legislation be adopted to provide appropriate legal remedies and prohibit discrimination based on race, colour, descent, or national or ethnic origin, as has been done with regard to discrimination on the grounds of gender and disability.

248. The Committee reiterates its concern regarding the situation of foreign domestic workers in the Hong Kong Special Administrative Region, mainly from the Philippines, Indonesia and Thailand, and the existence of certain rules and practices, such as the so-called "two-weeks rule", which may be discriminatory in effect.

249. The Committee requests the State party to provide in subsequent reports, inter alia, detailed information on judicial cases relating specifically to violations of the Convention, including in the Hong Kong and Macau Special Administrative Regions, with special reference to the granting by courts of adequate reparation for such violations.

250. The Committee recommends that the next State party report contain socio-economic data, disaggregated by national and ethnic group, and information on measures taken to prevent gender-related racial discrimination, including in the area of trafficking and reproductive health. The Committee also wishes to receive statistics, disaggregated by nationality and region, relating to detention, imprisonment, alleged, investigated and prosecuted cases of torture, death sentences and executions.

251. The State party is also invited to provide in its next report further information on the powers of the State Ethnic Affairs Commission and the impact of activities undertaken by it.

252. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

253. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

254. The Committee recommends that the State party's reports continue to be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

255. The Committee recommends that the State party submit its tenth periodic report jointly with its eleventh periodic report, due on 28 January 2003, and that it address all points raised in the present observations.

CYPRUS

256. The Committee considered the fifteenth and sixteenth periodic reports of Cyprus (CERD/C/384/Add.4), which were due on 4 January 1998 and 2000, respectively, submitted as one document as well as a supplementary report (CERD/C/384/Add.4/Rev.1), at its 1472nd and 1473rd meetings (CERD/C/SR.1472 and 1473), on 2 and 3 August 2001. At its 1483rd meeting (CERD/C/SR.1483), on 10 August 2001, it adopted the following concluding observations.

A. Introduction

257. The Committee welcomes the fifteenth and sixteenth periodic reports of Cyprus, as well as the supplementary report presented by the State party, which provide detailed answers to concerns expressed and recommendations made by the Committee in its previous concluding observations (CERD/C/304/Add.56). The Committee appreciates the delegation's frankness and sincerity during the presentation of the report and its acknowledgement of the difficulties faced in implementing the Convention.

B. Factors and difficulties impeding the implementation of the Convention

258. Despite Cyprus having been one of the first countries to ratify the Convention, the Government of Cyprus is still prevented from implementing the provisions of the Convention throughout its national territory. The occupation since 1974 by Turkish forces of 37 per cent of the territory has caused the de facto separation of the various ethnic and religious communities. This artificial division is not only an obstacle to peace and the enjoyment of human rights in the region, but impedes the construction of a progressive anti-discrimination strategy for the island as a whole. In this context, attention is drawn to the Committee's decision 1 (59) on Cyprus adopted by the Committee on 13 August 2001 (see chap. X).

C. Positive aspects

259. The Committee welcomes the setting up in September 1998 of the National Institution for the Protection of Human Rights, which contributes, inter alia, to the dissemination of information with regard to the Convention and other international conventions. It also welcomes the appointment of the Presidential Commissioner for Minorities.

260. The Committee notes with satisfaction the establishment of a Complaints Office within the Ministry of Labour and Social Insurance in charge of dealing with complaints made by foreign workers, including domestic workers.

261. The Committee welcomes the extension of the powers of the Attorney-General to appoint criminal investigators to investigate police behaviour without the requirement of a written complaint addressed to the Attorney-General by the alleged victim of racial discrimination.

262. The Committee expresses satisfaction at the recent amendment (Law 28 III of 1999) of Law 11 (III) of 1992 which criminalizes acts mentioned in article 4 of the Convention. As a result of the amendment it is no longer necessary that incitement to racial hatred be intentional in order for the offence to be committed.

263. Satisfaction is also expressed at the amendment of the 1967 Citizenship Law which eradicates discrimination in marriage to foreigners. Through this amendment, the right of an alien spouse to acquire the citizenship of the Cypriot spouse is now recognized for both spouses, as is the equal right of both spouses to transmit citizenship to their children.

264. The Committee notes with approval that a draft marriage law, allowing marriage between a Greek Orthodox Christian and a Muslim of Turkish origin has been approved by the Council of Ministers and laid before the House of Representatives for enactment.

265. Developments in the field of education, particularly efforts to promote human rights awareness in schools, the subsidizing of the education of minority groups and the establishment of elementary schools for the Maronites, are encouraging.

266. The Committee welcomes the clarification that the Constitution of Cyprus, although resulting from international treaties, may be amended so that, inter alia, the legal system in Cyprus can reflect more fully the requirements of the Convention on the Elimination of All Forms of Racial Discrimination.

D. Concerns and recommendations

267. Concerning information on cases of violence committed by police against aliens entering Cyprus illegally, the Committee recommends that the authorities continue to monitor such incidents closely and take appropriate steps to deal with them.

268. While the State party has enacted a number of criminal law provisions in the field of racial discrimination, and amended them following the Committee's recommendations, there is little evidence that these criminal provisions are being used. The State party is invited to provide information about the number of complaints of racial discrimination brought before the courts as well as the corresponding decisions.

269. The Committee expresses its concern at the lack of legal provisions expressly outlawing racial discrimination by private persons in education and employment, and recommends that the State party give attention to the development of such legislation.

270. While commending the State party for the enactment of the 2000 Refugee Act, the Committee recommends the prompt adoption of the necessary mechanisms for its full implementation, especially with respect to refugee status determination.

271. The Committee expresses concern at the absence of a comprehensive immigration policy aimed at regulating the entry and stay of immigrants, as well as their employment rights.

272. The Committee encourages the State party to take further steps to increase awareness of the Convention among the general public, in particular foreign domestic workers, members of the police and the judiciary. It also recommends that measures taken by the State party to combat discrimination in the field of education, culture and information be intensified.

273. The State party is invited to provide in its next report updated information on: (a) the work of the Presidential Commissioner for Minorities; and (b) the demographic composition of the population in the Government-controlled area and the Turkish-occupied territory, disaggregated by community, ethnic group and gender. In this context, attention is drawn to general recommendation XXV on gender-related dimensions of racial discrimination.

274. The Committee shares the State party's concern that despite efforts undertaken by the Government of Cyprus to organize bicommunal activities there are continuous difficulties hindering the meeting of the Turkish and Greek communities and the restoration of mutual confidence. The Committee recommends that the State party continue to adopt confidence-building measures in order to promote a climate of respect for human rights for all its citizens.

275. The Committee notes that no communications were received under article 14, which may indicate a lack of awareness of this procedure under the Convention.

276. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

277. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 4 January 2004, and that it address all the points raised in the present observations.

EGYPT

278. The Committee considered the thirteenth, fourteenth, fifteenth and sixteenth periodic reports of Egypt, which were due on 4 January 1994, 1996, 1998 and 2000, respectively, submitted as one document (CERD/C/384/Add.3), at its 1484th and 1485th meetings (CERD/C/SR.1484 and 1485), on 10 and 13 August 2001. At its 1489th meeting (CERD/C/SR.1489), on 15 August 2001, it adopted the following concluding observations.

A. Introduction

279. The Committee welcomes the thirteenth, fourteenth, fifteenth and sixteenth periodic reports as well as the additional information that the State party's delegation provided during its oral presentation and in writing, and expresses its appreciation for the opportunity to renew its dialogue with the State party after seven years.

280. The Committee welcomes the detailed and comprehensive report submitted by the State party, which provides ample information particularly on the legal order. The Committee furthermore notes that the report has been drawn up in accordance with the Committee's revised guidelines and responds to many questions raised during the examination of the previous report in 1994. The additional oral information provided by the delegation in response to questions asked by Committee members is also appreciated.

B. Positive aspects

281. The Committee considers as very positive the significant role of the Supreme Constitutional Court in the judicial system of the State party in upholding human rights and constitutional guarantees, particularly with regard to the protection of equal rights, as well as the prevention and elimination of discrimination.

282. The Committee welcomes the fact that, pursuant to article 151 of the Constitution, international instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, form part of the domestic legal system and can be invoked directly before the courts. Furthermore, access to the Supreme Constitutional Court is guaranteed so as to enable citizens to challenge the constitutionality of any domestic provision.

283. The Committee notes with satisfaction that the Supreme Constitutional Court defines racial discrimination in terms very close to the definition given by the Convention.

284. The Committee welcomes the significant efforts made by the State party to ensure that its development strategy is implemented without any discrimination on racial grounds and that it is equitable in its reach, covering all regions of the country.

285. The Committee welcomes the initiatives taken by the Government in the area of human rights education in schools and universities and notes the efforts undertaken by the State party to teach and promote a culture of human rights, tolerance and peace. The Committee encourages such efforts and hopes the State party will continue along this path.

C. Concerns and recommendations

286. Although noting the view of the State party as to the homogeneity of its population, the absence of notable ethnic minorities, and the existence of some numerically small ethnic groups, including nomads, Berbers and Nubians, as well as Egyptians of Greek and Armenian origin, the Committee recommends the State party to provide information on these groups, in particular economic and social indicators reflecting their situation, including their participation in public life and the preservation of their culture.

287. The Committee remains concerned that the legislation of the State party does not seem to respond fully to the requirements of article 4 of the Convention, specifically article 4 (a), which requires States parties to declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin.

The Committee notes that defamation as well as acts of violence or the threat to use violence are punishable by law, but there is no legal provision making ethnic or racial motivation for such acts an aggravating circumstance. The Committee recommends that the State party review its domestic legislation in the light of the provisions of article 4 of the Convention so as to give effect to all its requirements, as stated by the State party during the consideration of its previous report.

288. The Committee expresses its concern at the nationality law, which prevents an Egyptian mother married to a foreigner from passing on her nationality to her children. The Committee is also concerned that children born to Egyptian mothers and foreign fathers are faced with discrimination in the field of education. The Committee takes note of the promise of the State party to revise the nationality law, which discriminates against children born to Egyptian women married to non-nationals, so as to bring it into line with the provisions of the Convention and requests to be informed in the next report.

289. The Committee recommends that the State party continue its efforts to train all personnel working in the field of criminal justice and law enforcement officials in the spirit of respect for human rights and non-discrimination on ethnic or racial grounds.

290. The Committee recommends that the State party resolve the difficulties relating to the registration of some non-governmental organizations dealing with the promotion and protection of human rights which are working in particular to combat racial discrimination.

291. The Committee notes the absence in the report of references to the contribution of non-governmental organizations in the preparation of the report, and encourages the State party to collaborate with non-governmental organizations during the preparation of the next periodic report.

292. Noting that the State party is in the process of considering the establishment of a National Council for Human Rights in accordance with the Paris Principles concerning the establishment and functioning of national institutions for human rights (General Assembly resolution 48/134), the Committee recommends that steps be taken to accelerate this process and requests the State party to provide information on the powers and functions of this institution in its next periodic report.

293. The State party is invited to provide further information in its next periodic report on the following issues: (a) relevant cases relating to racial discrimination before Egyptian courts, and the decisions taken; (b) the economic and social situation of numerically small ethnic groups, including access to education and the preservation of their culture; (c) data on foreigners and their situation in the country; (d) results of academic studies and surveys on numerically small ethnic groups.

294. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

295. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

296. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

297. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 4 January 2004, and that it addresses all points raised in the present observations.

ITALY

298. The Committee considered the thirteenth periodic report of Italy (CERD/C/406/Add.1) at its 1466th and 1467th meetings, on 30 and 31 July 2001 (CERD/C/SR.1466 and 1467), and at its 1479th meeting (CERD/C/SR.1479), on 8 August 2001, adopted the following concluding observations.

A. Introduction

299. The Committee welcomes the very detailed report presented by the Government of Italy, which focuses on the recommendations made by the Committee in its previous concluding observations (CERD/C/304/Add.68) and contains relevant information about the implementation of the provisions of the Convention in the State party. The Committee also notes the State party's regularity in its submission of periodic reports.

300. While the Committee welcomes the detailed information on issues related to immigration, most of the report deals with the situation of foreigners, while racial discrimination in the sense of the Convention embraces discrimination against all persons on grounds of race, colour, descent or national or ethnic origin, irrespective of whether they are Italian citizens or foreigners.

B. Positive aspects

301. The Committee is satisfied that its previous recommendations have been widely disseminated and communicated among all relevant administrations.

302. The Committee notes with satisfaction that new courses on human rights implementation and principles have been set up for the police, the carabinieri and for the personnel of detention facilities.

303. The Committee welcomes the establishment of cultural mediators who are expected to contribute to a constructive and successful dialogue with foreigners present in the country and between individuals of different communities. The Committee also notes with satisfaction that these cultural mediators, currently 75 in number, are properly trained and are mostly recruited among persons of foreign origin.

304. The Committee welcomes the fact that the Testo Unico, the State party's unified legislation on the status of foreigners, creates an obligation for employers to ensure, by means of their own resources, appropriate housing facilities for immigrants and their families for a certain period of time.

305. The Committee welcomes the particularly detailed statistical information on foreigners and criminality and on illegal immigration.

306. The Committee welcomes the fact that the State party's legislation provides for the right to education for all minors, irrespective of the existence of a valid residence permit, and the role played in this regard by the recently created Permanent Territorial Centres (Centri Territoriali Permanenti).

307. The Committee welcomes the imminent adoption of the draft law on "Measures against trafficking in persons" that has already been adopted by one chamber of the State party's legislature.

C. Concerns and recommendations

308. The Committee notes that foreigners residing regularly on the territory of the State party account for 2.2 per cent of its total population. In view of the difficulties resulting from its particular geographical location and the specific shape of its territory which lead to a high influx of illegal immigrants, the Committee recommends that the State party take active measures to promote racial tolerance among all individuals and especially among law enforcement authorities.

309. The Committee reiterates its encouragement to the State party to consider recognizing the status of minority to Roma populations who have resided in Italy for an extended period of time and who have become sedentary. In this respect, the Committee recommends that the State party consult effectively with representatives of the Roma population. The Committee also expresses its concern with regard to the possible inappropriate consequences of the State party's policy of encouraging Roma to apply for stateless status.

310. The Committee recommends the State party to ensure that the local authorities take more resolute action to prevent and punish racially motivated acts of violence against Roma and other persons of foreign origin.

311. The Committee considers that the education of Roma children is one of the priorities for the integration of their community in Italian society. In this respect, the Committee notes that the State party has chosen to integrate Roma children into the regular Italian schooling system, but suggests that the State party continue to make every effort to respect and accommodate the specific cultural background of these children.

312. While noting that the legislation adopted by the State party regarding article 4 of the Convention is appropriate and contains a comprehensive definition of racial discrimination, the Committee, concerned about allegations that racist organizations were not properly punished, requests the State party to examine thoroughly such allegations.

313. While noting the State party's indication in its report that the number of incidents of racist violence has decreased, the Committee is concerned about incidents of this nature, in particular those that have recently occurred during football matches. The Committee supports, in this respect, the efforts made by the State party and urges it to maintain a firm policy towards the perpetrators of such violence.

314. Taking note of the information provided by the State party that women represent 58.8 per cent of the immigrant labour force in domestic work, and aware of the possibility that they may easily be exploited, the Committee recommends that the State party take all appropriate measures to reduce this risk.

315. The Committee notes that the increase in the percentage of foreigners accused of crimes (from 4.2 per cent in 1991 to 9.8 per cent in 1997) is largely due to foreigners staying illegally in Italy (84.95 per cent of the persons denounced and 88.77 per cent of the persons arrested). As this development can have an important effect on tolerance and peaceful coexistence between Italian citizens and foreigners, as acknowledged by the State party, the Committee encourages the State party to stress that there is no correlation between the increase of criminality and the presence of migrants and other foreigners staying legally in the country.

316. The Committee recommends that the State party intensify its efforts and its cooperation with other countries, including the countries of origin, in order to reduce illegal immigration, criminal trafficking and commercial exploitation of human beings. Noting that foreign employees regularly resident on the territory are guaranteed equality of treatment with Italian employees while irregular workers, who make up 30 per cent of the entire non-EU labour force (and even up to 50 per cent in northern Italy), are subjected to different forms of exploitation, the Committee recommends that the State party take all necessary measures to put an end to those illegal practices.

317. In accordance with previous requests made by the Committee[11] the State party is invited in its next report to provide further information on the implementation of article 6 of the Convention, and particularly on the numbers of persons who have been convicted following racist incidents, on the different forms of such incidents and on the response provided by Italian courts. In this regard, the Committee would welcome updated information on the incidents that occurred in 1998 and 1999 in Venice, Milan, Rome, Barletta, Turin and Bologna referred to in the present periodic report.

318. While recognizing that the State party has made the declaration provided for under article 14 of the Convention in 1978, the Committee notes that it has not yet received any individual communications from persons under the jurisdiction of the State party. The Committee recommends that the State party ensure that the public is well informed of the possibility of submitting such communications to the Committee.

319. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized. It encourages the State party to insert the Committee's concluding observations on the appropriate ministry's Web site.

320. The Committee recommends that the State party submit its fourteenth periodic report jointly with its fifteenth periodic report, due on 4 February 2005, and that it address the points raised in the present observations.

SRI LANKA

321. The Committee considered the seventh, eighth and ninth periodic reports of Sri Lanka (CERD/C/357/Add.3), which were due on 20 March 1995, 1997 and 1999, respectively, at its 1478th and 1479th meetings (CERD/C/SR.1478 and 1479), on 7 and 8 August 2001. At its 1487th meeting (CERD/C/SR.1487), on 14 August 2001, it adopted the following concluding observations.

A. Introduction

322. The Committee welcomes the seventh, eighth and ninth periodic reports of Sri Lanka, as well as the supplementary report presented by the State party. The additional oral and written information provided by the delegation during its presentation is also welcome. The Committee expresses its appreciation for the opportunity to continue its dialogue with the State party.

B. Factors and difficulties impeding the implementation of the Convention

323. The Committee recognizes that the serious internal situation faced by the State party has not been conducive to the effective implementation of the Convention. The long-lasting armed conflict in the country has resulted in thousands of persons killed and over half a million internally displaced. It is the view of this Committee that military means will not solve the conflict and that only a negotiated political solution, which includes the participation of all parties, will lead to peace and harmony among ethnic communities in the island.

C. Positive aspects

324. The Committee welcomes the establishment of the Human Rights Commission in March 1997, aimed at, inter alia, investigating and settling human rights complaints, advising the Government in the formulation of relevant legislation and making recommendations to the Government on human rights issues.

325. It further welcomes the establishment on 20 November 2000 of the Permanent Inter-Ministerial Standing Committee on Human Rights entrusted with the mandate of monitoring and reviewing action taken by government agencies concerning allegations of human rights violations as well as follow up to recommendations made by United Nations human rights mechanisms.

326. The Committee welcomes the State party's readiness to cooperate with United Nations human rights procedures and thematic mechanisms of the Commission on Human Rights. The ratification on 3 October 1997 of the Optional Protocol to the International Covenant on Civil and Political Rights is also an encouraging step.

327. The Committee welcomes the statement by the Government that they will continue to provide food and other kinds of relief to displaced and other needy citizens.

328. The Committee notes with approval that on July 2001 media restrictions were lifted. Thus, the system of requiring journalists to obtain permission to visit all areas in the north and eastern provinces is no longer in effect.

329. The Committee notes with appreciation that steps have been taken to address human rights violations, in particular the appointment of three Zonal Commissions of Inquiry to inquire into the disappearances of persons from January 1988 to December 1990.

330. The Committee notes the Government's proposal for constitutional reform which includes a devolution of power to regions, as well as its willingness to come to a negotiated political solution leading to, inter alia, the establishment of a regional legislative assembly enjoying federal powers.

331. It also notes the work of the Ministry of Ethnic Affairs and National Integration, responsible for implementing the Government's policy on ethnic affairs.

D. Concerns and recommendations

332. The Committee is concerned at the restrictions placed on civil and political rights under the Prevention of Terrorism Act and Emergency Regulations and their allegedly discriminatory application with regard to Tamils. While commending the recent amendments to the Emergency Regulations, and noting that the Emergency Regulations lapsed on 4 June 2001, the Committee reiterates its concern, as expressed in previous concluding observations, that a state of emergency has been intermittently in effect in different parts of the country since 1983. The Committee hopes that the situation in the country will improve so that the state of emergency can be lifted.

333. Concern is expressed about the situation of civilians living in the north and east of the country, and particularly about those persons internally displaced by the conflict. The Committee recommends that the State party continue to provide assistance to the civilian population in the north and eastern provinces and cooperate with humanitarian agencies.

334. The Committee is concerned at the fact that a large number of Tamils of Indian origin, particularly plantation workers, and their descendants have still not been granted citizenship and that many of them even continue to be stateless. Tamils without Sri Lankan citizenship are allegedly discriminated against and do not fully enjoy their economic, social and cultural rights. The Committee recommends that early and effective measures be taken to solve this problem and that these persons should not be threatened with repatriation.

335. The situation of the country's indigenous people, the Veddas, and the creation of a national park on their ancestral forestland is of concern. In this context attention is drawn to the Committee's general recommendation XXIII calling upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

336. Concerning allegations of violations of human rights, the Committee reminds the State party of its obligation to conduct exhaustive and impartial investigations into allegations of human rights violations involving racial discrimination and bring to justice those responsible. The Committee recommends that the State party continue to disseminate knowledge of human rights instruments as well as international humanitarian law among security forces and law enforcement officers.

337. The State party is invited in its next report to provide updated information on the demographic composition of the population, including in the north and east of the island and its breakdown by community, ethnic group and gender. The Committee further recommends that the State party review the categorization of ethnic groups in Sri Lanka.

338. The State party is further invited to provide information on the following issues: (a) the content of the devolution regime for regions; (b) the scope of restrictions on the movement of Tamils living in the north and eastern provinces; (c) the situation of the Veddas; (d) measures taken to solve the problem of stateless persons in Sri Lanka; (e) measures taken to eliminate racial discrimination among Tamil and other minority groups; (f) the application of the Prevention of Terrorism Act and Emergency Regulations, particularly their application to Tamils and other ethnic groups.

339. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

340. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of the States Parties to the Convention.

341. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

342. The Committee recommends that the State party submit its tenth periodic report jointly with its eleventh periodic report, due on 20 March 2003, and that it address all the points raised in the present observations.

TRINIDAD AND TOBAGO

343. The Committee considered the eleventh, twelfth, thirteenth and fourteenth periodic reports of Trinidad and Tobago, due on 3 November 1994, 1996, 1998 and 2000, respectively, submitted as one document (CERD/C/382/Add.1), at its 1470th and 1471st meetings (CERD/C/SR.1470 and 1471), on 1 and 2 August 2001. At its 1479th meeting (CERD/C/SR.1479), on 8 August 2001, it adopted the following concluding observations.

A. Introduction

344. The Committee welcomes the eleventh, twelfth, thirteenth and fourteenth periodic reports as well as the updated additional information that the State party's delegation provided during its oral presentation, and expresses its appreciation for the opportunity to renew its dialogue with the State party after more than six years. The Committee notes with appreciation that the report was more exhaustive and of a higher quality than the previous periodic report.

B. Positive aspects

345. The Committee welcomes the relevant statistical information provided by the State party in the report, which demonstrates an encouraging effort to provide the Committee with information requested during the consideration of the tenth periodic report.

346. The Committee welcomes the establishment of the Human Rights Unit in the Office of the Attorney-General and Ministry of Legal Affairs to address, inter alia, the compliance with treaty obligations, and the positive announcement by the delegation of the various measures envisaged to disseminate the International Convention on the Elimination of All Forms of Racial Discrimination, the State party reports, as well as the concluding observations and recommendations of the Committee.

347. The Committee notes that the State party has taken significant steps which will contribute to combating racial discrimination, including the passage of the Equal Opportunities Act, No. 39 of 2000, the Judicial Review Act, No. 60 of 2000 and other pertinent legislation. The Committee furthermore welcomes the proposed steps to strengthen the powers of the Ombudsman, including to enable him to apply to the High Court for the enforcement of his recommendations. The recent introduction of public interest litigation by the Judicial Review Act should further assist in the effective work of the Ombudsman.

C. Concerns and recommendations

348. The assertion by the State party as to the absence of racial discrimination on its territory was not accepted by the Committee and it was recommended by the Committee that the State party reconsider this stand.

349. The Committee is concerned at the absence in the State party of specific legislative, administrative and other measures implementing article 4 of the Convention, especially article 4 (b) prohibiting racist organizations. While noting the opinion expressed by the delegation that criminalizing dissemination of ideas based on racial superiority or hatred, as well as racist organizations, could have adverse effects, the Committee underlines the obligations in accordance with the Convention and reiterates its view as to the preventive role of such legislation. In this connection, the Committee also draws the attention of the State party to its general recommendations VII and XV on the compatibility of the prohibition of the dissemination of ideas based upon racial superiority or hatred with the right to freedom of opinion and expression. Welcoming the statement of the delegation that the State party is

prepared to re-examine its position in accordance with its obligations under the Convention, the Committee urges the State party to give due consideration to adopting the necessary legislation in compliance with article 4, particularly article 4 (b), of the Convention as a matter of priority.

350. Moreover, the Committee requests the State party to include in its next periodic report statistical information on prosecutions launched and punishment awarded in cases of offences which have a bearing on racial discrimination, including indirect discrimination, and where the relevant provisions of the existing domestic legislation have found application. The Committee reminds the State party that absence of complaints by victims of racial discrimination could possibly be an indication of a lack of awareness of available legal remedies. It is therefore essential to inform the public of the availability of all legal remedies.

351. The Committee expresses its concern at the absence in this report of specific information on the indigenous population as well as other relatively small ethnic groups of the State party in the report, and particularly the absence of a specific categorization of the indigenous population as a separate ethnic group in official statistics on the population. The Committee encourages the Government to include the indigenous population in any statistical data as a separate ethnic group, and actively to seek consultations with them as to how they prefer to be identified, as well as on policies and programmes affecting them.

352. The Committee is concerned that the Police Complaints Authority, which receives complaints about the conduct of police officers and monitors their investigation, has indicated that racial discrimination is not a category of complaint which is examined, owing to the small number of such complaints. The Committee welcomes the assurances of the delegation that the Police Complaints Authority will be given clear instructions to identify complaints of racial discrimination as a separate category and to report to the higher authorities the results of investigations into cases of racial discrimination.

353. The Committee notes the absence of any reference in the report to the contribution of civil society organizations in the promotion of ethnic harmony and in the preparation of the periodic report, and expresses its hope that the next periodic report will reflect the contribution of such organizations, particularly those dealing with issues related to combating racial discrimination.

354. The Committee notes the lack of disaggregated data on the student population and encourages the Government to take appropriate steps to ensure the provision of adequate statistics on this segment of the population.

355. The State party is invited to provide further information in its next periodic report on the following issues: (a) the ethnic composition of the population and in particular statistical data relating to the numerically small ethnic groups; (b) sufficient data on the employment of different racial groups in government service in different sectors, including comparative data, so as to indicate changes in the ethnic distribution in government service; (c) the involvement of civil society organizations in addressing issues related to racial discrimination and in raising awareness of the Convention; (d) the outcome of investigations of complaints with the Ombudsman's office and the respective remedies, particularly with regard to cases of racial

discrimination; and (e) the functioning and impact of the new legislation pertinent to combating racial discrimination, in particular the new Equal Opportunities Act, No. 39 of 2000 and the corresponding institutional framework, particularly the Equal Opportunity Commission and the Equal Opportunity Tribunal, with regard to their functioning, membership and performance.

356. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

357. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

358. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

359. The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth periodic report, due on 3 November 2004, and that it address all points raised in the present observations.

UKRAINE

360. The Committee considered the fifteenth and sixteenth periodic reports of Ukraine (CERD/C/384/Add.2), due on 6 April 1998 and 2000 respectively, at its 1482nd and 1483rd meetings (CERD/C/SR.1482 and 1483), on 9 and 10 August 2001. At its 1491st and 1492nd meetings (CERD/C/SR.1491 and 1492), on 16 August 2001, it adopted the following concluding observations.

A. Introduction

361. The Committee welcomes the fifteenth and sixteenth periodic reports of Ukraine as well as the additional information that the State party's delegation provided during its oral presentation.

B. Factors and difficulties impeding the implementation of the Convention

362. The Committee acknowledges the statement of the State party that it is in a process of significant political, economic and social reform.

C. Positive aspects

363. The Committee notes with satisfaction the continuing efforts of the State party to reform its legislation, including its Criminal Code, the abolition of the death penalty and the creation of an appeals court system, and in particular the State party's recent adoption of the Law on Refugees of January 2000, the Citizenship Law of January 2001 and the Law on Immigration of June 2001.

364. The Committee notes the number of provisions in domestic legislation, in particular article 37 of the Constitution, article 66 of the Criminal Code and the provisions of the National Minorities Act, prohibiting the dissemination of racial and ethnic hate propaganda and the creation of organizations and political parties that are based upon racial hatred or discrimination. The Committee also notes that legal action has been taken against publications and organizations for fomenting anti-Semitism and inter-ethnic hatred.

365. Since issues relating to minority languages have remained one of the most salient problems of inter-ethnic relations in Ukraine, the Committee welcomes the State party's efforts to provide educational opportunities in a number of minority languages as detailed in paragraphs 56-58 of the State party report.

366. The Committee commends the continuing efforts by the State party to resettle and rehabilitate the Crimean Tatars, who were deported decades earlier.

367. The Committee also welcomes the announcement that a new census will take place in December this year.

D. Concerns and recommendations

368. The Committee regrets the lack of information in the report, despite the Committee's previous request to this effect, on demographic data that compare the socio-economic status of various ethnic groups in the population. The Committee recommends that the State party in its next report provide data on the composition of the population, as requested in the reporting guidelines of the Committee. If possible, such data should also be disaggregated by gender.

369. The Committee is concerned that national legislation does not contain sufficient provisions prohibiting discrimination on the grounds of race or ethnic or national origin in conformity with the requirements of the Convention. The Committee recommends that the State party take all appropriate legislative measures to ensure that the provisions of the Convention are fully reflected in domestic law. The Committee emphasizes the importance of adequately prohibiting and penalizing acts of racial segregation and discrimination whether they are committed by individuals or associations.

370. In particular, the Committee recommends again that the State party review its legislation in order to ensure that it meets fully the requirements of article 4.

371. The Committee also recommends that the State party adopt effective measures, pursuant to article 5 of the Convention, guaranteeing equal enjoyment of the rights enumerated in those provisions to all ethnic groups within Ukraine, without distinction based on race, colour, descent or national or ethnic origin.

372. The Committee is concerned that institutions to enforce laws against racial discrimination and provide remedies and recourse measures are not sufficiently utilized. The Committee requests the State party to include in its next periodic report information about

complaints filed, investigations and prosecutions initiated, and criminal or civil sanctions imposed in cases of offences which have a bearing on racial discrimination, including the outcome of investigations of complaints filed with the Human Rights Ombudsman. The Committee also requests that the next report contain information on steps taken by the State party to educate the public about the existence of the recourse measures and how they may be utilized by victims.

373. The Committee is concerned about reports of the continuing discriminatory treatment of Roma and violence against them and their property. The Committee is particularly concerned about reports of police brutality against the Roma population, including arbitrary arrests and illegal detention. The Committee recommends that the State party take immediate and effective steps to stop these abuses and that the next report contain information on human rights training for the police, investigations of complaints of abuse and disciplinary and criminal measures taken against those found guilty of committing abuses.

374. While noting efforts made by the State party to facilitate the resettlement and rehabilitation of Crimean Tartars, the Committee reiterates its concern regarding the difficulties experienced by the Crimean Tartars in acquiring Ukrainian citizenship. At the same time it was felt that this resettlement should not generate new ethnic tensions that might lead to conflict between Crimean Tatars and other minorities. The Committee recommends that the State party review its legislation and practices in this regard and make any revisions required by the Convention.

375. The Committee was disturbed by the oral statement of the delegation that many nationals of a certain African country are involved in drug trafficking in Ukraine. The Committee strongly recommends that the State party take actions to counter any tendency to target, stigmatize or stereotype, which could lead to racial profiling of particular population groups by police and immigration officers as well as in the media and society at large.

376. The Committee encourages the State party in its efforts to ensure education and teaching in the mother tongue of minorities, wherever possible.

377. Noting that it has not yet received any individual communications from persons under the jurisdiction of the State party, although the State party has accepted the jurisdiction of the Committee under article 14, the Committee recommends that the State party ensure that the public is well informed of the possibility of submitting such communications to the Committee.

378. The Committee recommends that the State party's reports continue to be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

379. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 6 April 2004, and that it address all points raised in the present observations.

UNITED STATES OF AMERICA

380. The Committee considered the initial, second and third periodic reports of the United States of America (CERD/C/351/Add.1), submitted as one document, which were due on 20 November 1995, 1997 and 1999 respectively, at its 1474th, 1475th and 1476th meetings (CERD/C/SR.1474-1476), on 3 and 6 August 2001. At its 1486th meeting (CERD/C/SR.1486), on 13 August 2001, it adopted the following concluding observations.

A. Introduction

381. The Committee welcomes the opportunity to initiate its dialogue with the State party. The Committee was encouraged by the attendance of a high-level delegation and the professionalism and constructiveness characterizing the dialogue.

382. The Committee welcomes the detailed, frank and comprehensive report submitted by the State party, the contents of which correspond with the Committee's revised reporting guidelines, and the fact that the report was prepared in consultation with non-governmental organizations and other public interest groups. The additional substantive and comprehensive oral information provided by the delegation by way of introduction and in response to the wide range of questions asked by Committee members is also appreciated.

383. In view of the dialogue held, the Committee wishes to emphasize that irrespective of the relationship between the federal authorities, on the one hand, and the States, which have extensive jurisdiction and legislative powers, on the other, with regard to its obligation under the Convention, the Federal Government has the responsibility to ensure its implementation on its entire territory.

B. Factors and difficulties impeding the implementation of the Convention

384. The Committee notes the persistence of the discriminatory effects of the legacy of slavery, segregation, and destructive policies with regard to Native Americans.

C. Positive aspects

385. The Committee notes the acknowledgement by the State party of the multi-ethnic, multiracial and multicultural nature of American society.

386. The Committee notes that the State party in recent years has ratified or acceded to certain international human rights treaties, including the Convention, and encourages this development. It furtner notes Executive Order 13107 of 10 December 1998 on the Implementation of Human Rights Treaties, which provides that "it shall be the policy and practice of the Government of the United States fully to respect and implement its obligations under the international human rights treaties to which it is a party", including the Convention.

387. The Committee notes the extensive constitutional and legislative framework for the effective protection of civil rights in general provided by the Bill of Rights and federal laws.

388. The Committee welcomes recent measures, including the launching in 1997 of the "Initiative on Race", the establishment of the Minority Business Development Agency under the Department of Commerce in order to redress racial and ethnic discrimination in the industrial market, as well as the efforts made to eliminate the practice of racial profiling, and encourages the continuation of such initiatives.

389. The Committee notes as positive the continuous increase in the number of persons belonging to, in particular, the African-American and Hispanic communities in fields of employment previously predominantly occupied by Whites. The Committee particularly welcomes efforts made to promote the employment of persons from minority groups within the police force.

D. Concerns and recommendations

390. The Committee, concerned by the absence of specific legislation implementing the provisions of the Convention in domestic laws, recommends that the State party undertake the necessary measures to ensure the consistent application of the provisions of the Convention at all levels of government.

391. The Committee emphasizes its concern about the State party's far-reaching reservations, understandings and declarations entered at the time of ratification of the Convention. The Committee is particularly concerned about the implication of the State party's reservation on the implementation of article 4 of the Convention. In this regard the Committee recalls its general recommendations VII and XV, according to which the prohibition of dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression, given that a citizen's exercise of this right carries special duties and responsibilities, among which is the obligation not to disseminate racist ideas. The Committee recommends that the State party review its legislation in view of the new requirements of preventing and combating racial discrimination, and adopt regulations extending the protection against acts of racial discrimination, in accordance with article 4 of the Convention.

392. The Committee also notes with concern the position of the State party with regard to its obligation under article 2, paragraph 1 (c) and (d), to bring to an end all racial discrimination by any person, group or organization, that the prohibition and punishment of purely private conduct lie beyond the scope of governmental regulation, even in situations where the personal freedom is exercised in a discriminatory manner. The Committee recommends that the State party review its legislation so as to render liable to criminal sanctions the largest possible sphere of private conduct which is discriminatory on racial or ethnic grounds.

393. The Committee draws the attention of the State party to its obligations under the Convention and, in particular, to article 1, paragraph 1, and general recommendation XIV, to undertake to prohibit and to eliminate racial discrimination in all its forms, including practices

and legislation that may not be discriminatory in purpose, but in effect. The Committee recommends that the State party take all appropriate measures to review existing legislation and federal, State and local policies to ensure effective protection against any form of racial discrimination and any unjustifiably disparate impact.

394. The Committee notes with concern the incidents of police violence and brutality, including cases of deaths as a result of excessive use of force by law enforcement officials, which particularly affect minority groups and foreigners. The Committee recommends that the State party take immediate and effective measures to ensure the appropriate training of the police force with a view to combating prejudices which may lead to racial discrimination and ultimately to a violation of the right to security of persons. The Committee further recommends that firm action be taken to punish racially motivated violence and ensure the access of victims to effective legal remedies and the right to seek just and adequate reparation for any damage suffered as a result of such actions.

395. The Committee notes with concern that the majority of federal, state and local prison and jail inmates in the State party are members of ethnic or national minorities, and that the incarceration rate is particularly high with regard to African-Americans and Hispanics. The Committee recommends that the State party take firm action to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equal treatment before the courts and all other organs administering justice. Noting the socio-economic marginalization of a significant part of the African-American, Hispanic and Arab populations, it is further recommended that the State party ensure that the high incarceration rate is not a result of the economically, socially and educationally disadvantaged position of these groups.

396. The Committee notes with concern that, according to the Special Rapporteur of the United Nations Commission on Human Rights on extrajudicial, summary or arbitrary executions, there is a disturbing correlation between race, both of the victim and the defendant, and the imposition of the death penalty, particularly in states like Alabama, Florida, Georgia, Louisiana, Mississippi and Texas. The Committee urges the State party to ensure, possibly by imposing a moratorium, that no death penalty is imposed as a result of racial bias on the part of prosecutors, judges, juries and lawyers or as a result of the economically, socially and educationally disadvantaged position of the convicted persons.

397. The Committee is concerned about the political disenfranchisement of a large segment of the ethnic minority population who are denied the right to vote by disenfranchising laws and practices based on the commission of more than a certain number of criminal offences, and also sometimes by preventing them from voting even after the completion of their sentences. The Committee recalls that the right of everyone to vote on a non-discriminatory basis is a right contained in article 5 of the Convention.

398. While noting the numerous laws, institutions and measures designed to eradicate racial discrimination affecting the equal enjoyment of economic, social and cultural rights, the Committee is concerned about persistent disparities in the enjoyment of, in particular, the right to adequate housing, equal opportunities for education and employment, and access to public and

private health care. The Committee recommends that the State party take all appropriate measures, including special measures according to article 2, paragraph 2, of the Convention, to ensure the right of everyone, without discrimination as to race, colour, or national or ethnic origin, to the enjoyment of the rights contained in article 5 of the Convention.

399. With regard to affirmative action, the Committee notes with concern the position taken by the State party that the provisions of the Convention permit, but do not require States parties to adopt affirmative action measures to ensure the adequate development and protection of certain racial, ethnic or national groups. The Committee emphasizes that the adoption of special measures by States parties when the circumstances so warrant, such as in the case of persistent disparities, is an obligation stemming from article 2, paragraph 2, of the Convention.

400. The Committee notes with concern that treaties signed by the Government and Indian tribes, described as "domestic dependent nations" under national law, can be abrogated unilaterally by Congress and that the land they possess or use can be taken without compensation by a decision of the Government. It further expresses concern with regard to information on plans for expanding mining and nuclear waste storage on Western Shoshone ancestral land, placing their land up for auction for private sale, and other actions affecting the rights of indigenous peoples. The Committee recommends that the State party ensure effective participation by indigenous communities in decisions affecting them, including those on their land rights, as required under article 5 (c) of the Convention, and draws the attention of the State party to general recommendation XXIII on indigenous peoples which stresses the importance of securing the "informed consent" of indigenous communities and calls, inter alia, for recognition and compensation for loss. The State party is also encouraged to use as guidance the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

401. Noting the absence of data regarding racial discrimination in federal and State prisons and jails, the Committee invites the State party to provide, in its next report, information and statistics on complaints and subsequent action taken in this field.

402. Having noted the establishment under Executive Order 13107 of 10 December 1998 of the Interagency Working Group with the task of raising the awareness of United States federal agencies about the rights and obligations provided by the Convention, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment, the Committee invites the State party to provide in its next report further information on the powers of the Working Group and the impact of its activities. In this context, the Committee also notes that the present State party report primarily focuses on the implementation of the Convention at the federal level and recommends that the next periodic report contain comprehensive information on its implementation of the State and local levels and in all territories under United States jurisdiction, including Puerto Rico, the Virgin Islands, American Samoa, Guam and the Northern Mariana Islands.

403. The Committee further recommends that the next State party report contain socio-economic data, disaggregated by race, ethnic origin and gender, on, in particular: (a) the indigenous and Arab-American population; and (b) the populations of the States of Alaska and Hawaii.

404. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

405. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

406. The Committee recommends that the State party's reports continue to be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

407. The Committee recommends that the State party submit its fourth periodic report jointly with its fifth periodic report, due on 20 November 2003, and that it address all points raised in the present observations.

VIET NAM

408. The Committee considered the sixth to ninth periodic reports of Viet Nam, due on 9 July 1993, 1995, 1997 and 1999, respectively, submitted in one document (CERD/C/357/Add.2) at its 1480th and 1481st meetings (CERD/C/SR.1480 and 1481) on 8 and 9 August 2001, and at its 1490th meeting (CERD/C/SR.1490), on 15 August 2001, adopted the following concluding observations.

A. Introduction

409. The Committee welcomes the report submitted by the State party, which follows some of the suggestions made to the delegation during the presentation of its previous periodic report, and the additional oral information provided by the delegation. The resumption of a frank and constructive dialogue with the State party after a period of eight years is equally welcomed.

B. Positive aspects

410. The Committee welcomes the steps taken by the State party to disseminate information on its human rights obligations.

411. The Committee commends the efforts of the State party to rebuild and renew the social and economic structure of Vietnamese society through its Strategy Plan for Social Economic Stabilization and Development. The Committee considers that a growing economy should contribute to the easing of racial and ethnic tensions.

412. The Committee welcomes the ratification by the State party of eight United Nations human rights conventions as well as its acceptance of the principle of integrating these conventions into national legislation.

413. The Committee welcomes the presence of a significant number of representatives of minority groups in the State party's parliament.

C. Concerns and recommendations

414. The Committee, considering that no country is free from racial discrimination, encourages the State party to give closer attention to article 1 of the Convention and to consider the situation in the country in accordance with the broad definition given therein of racial discrimination.

415. Along the lines of its previous concluding observations,[12] the Committee considers that article 87 of the State party's Criminal Code and article 10, paragraph 2, of the Law on the Press do not encompass the whole scope of application of article 4 of the Convention. The Committee recommends that the State party adopt specific legislation in accordance with article 4 of the Convention.

416. The Committee notes that the State party's Constitution devotes an entire chapter to the fundamental rights and obligations of citizens and that several laws have been enacted to put the Constitution into concrete terms, thereby creating a legal environment for its implementation, but would welcome the adoption of more specific anti-discrimination legislation to implement the Convention.

417. Bearing in mind the allegations of forced sterilization of mountain ethnic minority women and their rejection by the State party's delegation, the Committee would welcome information from the State party on the impact of its population-planning policies on the enjoyment of reproductive rights by persons belonging to such minorities.

418. The Committee encourages the State party to continue its efforts to ensure that members of ethnic minorities, in particular minorities in mountain regions, enjoy equal protection of their rights.

419. The Committee urges the State party to protect the rights of all refugees in Viet Nam, including the rights of Vietnamese repatriated from Cambodia.

420. The Committee is concerned about reports of discrimination in the exercise of religious freedom by minority ethnic groups. Taking note of the response of the State party delegation denying these allegations, the Committee would request additional information from the State party on the exercise of this right by members of the ethnic minorities in Viet Nam.

421. The Committee is further concerned about the alleged population transfer to territories inhabited by indigenous groups, disadvantaging them in the exercise of their social, economic and cultural rights. The Committee requests further information on the matter.

422. As was already emphasized in its previous concluding observations, the Committee notes that the State party report does not mention any case of race-related acts of discrimination that have been submitted to the State party's judicial authorities. The Committee invites the State party to provide information in this respect in its next periodic report.

423. Additional information is also requested on the application of the Convention in pursuance of the State party's policy of comprehensive development to promote the economic, social and cultural rights of all persons belonging to ethnic minorities.

424. The Committee recommends that the State party strengthen the education of the society in a spirit of respect for human rights and in particular the rights of members of ethnic minorities.

425. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

426. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

427. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations be similarly publicized.

428. The Committee recommends that the State party submit its tenth periodic report jointly with its eleventh periodic report, due on 9 July 2003, and that it address the points raised in the present observations.

LIBERIA

429. In light of the failure of the State party to submit its initial through thirteenth periodic reports, the Committee considered the situation in the Republic of Liberia under its review procedures. Additionally, in its decision 3 (49),[13] the Committee decided to remain seized with the situation in Liberia under its early warning and urgent action procedures.

A. Introduction

430. The Committee regrets that the State party has failed to submit a single report in accordance with article 9 of the Convention since it ratified the Convention in 1976.

431. The Committee also regrets that after numerous invitations and inquiries, the State party failed to send a representative to engage in a dialogue with the Committee.

B. Factors and difficulties impeding the implementation of the Convention

432. The State party is still slowly emerging from over seven years of civil war which had immense human costs and was destructive of governmental and social institutions.

C. Concerns and recommendations

433. The Committee is concerned that national legislation does not contain explicit provisions prohibiting discrimination on the grounds of race or ethnic or national origin, in conformity with the requirements of the Convention.

434. The Committee recommends that the Republic of Liberia take all appropriate legislative measures to ensure that the provisions of the Convention are fully reflected in domestic law. The Committee emphasizes the importance of adequately prohibiting and penalizing acts of racial segregation and discrimination whether they are committed by individuals or associations.

435. The Committee also recommends that the Republic of Liberia adopt effective measures, pursuant to the provisions of the Convention, guaranteeing equal enjoyment of the rights enumerated in those provisions to all ethnic groups within the Republic of Liberia.

436. The Committee expresses grave concern about the numerous reported instances of discrimination in the Republic of Liberia based on ethnicity. The Committee is especially concerned by reports of extrajudicial killings, allegations of torture and rape, and the lack of accountability of perpetrators, including government security forces, for these abuses.

437. The Committee expresses its concerns about the vulnerable situation of the large number of refugees who have fled the Republic of Liberia for neighbouring countries, and that little seems to have been put into place to ensure their repatriation and reintegration. In addition, the reports of discrimination against Sierra Leonean refugees are disturbing.

438. With respect to article 7 of the Convention, the Committee notes that very little information is available on measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination.

439. The Committee urges the Republic of Liberia to take immediate and effective measures aimed at bringing to justice the perpetrators of human rights abuses during the civil war which targeted members of certain ethnic groups.

440. The State party should also guarantee swift and thoroughgoing investigation and prosecution of acts of violence against persons belonging to ethnic and racial groups.

441. With regard to article 6 of the Convention, the Committee recommends that the Republic of Liberia facilitate access to and ensure the effectiveness of courts and administrative bodies in enforcing the rights of racial and ethnic groups to be free from discrimination.

442. The Committee requests that the Republic of Liberia give wide publicity to the Convention and to the Committee's observations.

443. The Committee considers the situation in Liberia to be extremely grave with respect to the implementation of the Convention. The Committee decides to send a letter to the State party conveying its deep concern and expressing its willingness to send one or more of its members to visit Liberia with a view to initiating a dialogue with the State party and assisting it in fulfilling its obligations under the Convention.

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

444. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. A list of 34 States parties which have recognized the competence of the Committee to consider such communications can be found in annex I. In the period under review, three more States have made the declaration under article 14: Belgium, Czech Republic and Yugoslavia.

445. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

446. The Committee began its work under article 14 of the Convention at its thirtieth session, in 1984. At its thirty-sixth session (August 1988), the Committee adopted its Opinion on communication No. 1/1984 (Yilmaz-Dogan v. the Netherlands). At its thirty-ninth session, on 18 March 1991, the Committee adopted its Opinion on communication No. 2/1989 (Demba Talibe v. France). At its forty-second session, on 16 March 1993, the Committee, acting under rule 94, paragraph 7, of its rules of procedure, declared admissible and adopted its Opinion on communication No. 4/1991 (L.K. v. the Netherlands). At its forty-fourth session, on 15 March 1994, the Committee adopted its Opinion on communication No. 3/1991 (Michel L.N. Narrainen v. Norway). During its forty-sixth session (March 1995), the Committee declared inadmissible communication No. 5/1994 (C.P. v. Denmark). At its fifty-first session (August 1997), the Committee declared inadmissible communication No. 7/1995 (Barbaro v. Australia). At its fifty-third session (August 1998), the Committee declared inadmissible communication No. 9/1997 (D.S. v. Sweden). At its fifty-fourth session (March 1999), the Committee adopted its Opinions on communications No. 8/1996 (B.M.S. v. Australia) and 10/1997 (Habassi v. Denmark). At its fifty-fifth session (August 1999), the Committee adopted its Opinion on communication No. 6/1995 (Z.U.B.S. v. Australia). At its fifty-sixth session (March 2000), the Committee adopted its Opinions on communication No. 16/1999 (Kashif Ahmad v. Denmark) and No. 17/1999 (B.J. v. Denmark). At its fifty-seventh session, the Committee adopted its Opinion on communication No. 13/1998 (Koptova v. Slovak Republic) and declared communication No. 12/1998 (Barbaro v. Australia) inadmissible for lack of exhaustion of domestic remedies.

447. At its fifty-eighth session (March 2001), the Committee adopted its Opinion on communication No. 15/1999 (E.I.F. v. The Netherlands), which is reproduced in full in annex III.A. The case concerned a petitioner who claimed to have been discharged from the Dutch Police Academy on racial grounds. While the Committee noted that some of the allegations submitted by the petitioner had racial connotations of a serious nature, these allegations did not constitute the object of the claims brought before the Amsterdam District Court and the Central Appeals Tribunal, which dealt mainly with the question of the dismissal from the Police Academy. The Committee concluded that on the basis of the information

before it, the decision to terminate the petitioner's participation in the Police Academy did not appear to be the result of discrimination on racial grounds. Nor had any evidence been submitted to substantiate the claim that the petitioner's poor academic results were related to incidents of racial discrimination. The Committee concluded that the facts, as submitted, did not disclose a violation of the Convention by the State party.

448. Also at its fifty-eighth session, the Committee declared communication No. 18/2000 (F.A. v. Norway) inadmissible under rule 91 (f) of the rules of procedure for failure to submit the communication within the time limit of six months following the exhaustion of domestic remedies. In this case the petitioner had availed himself of the services of a housing agency which gave him access to the lists of vacant accommodation. In checking the lists, he found that about half of the housing advertisements clearly indicated that persons from certain groups were not desired as tenants. In June 1995 the author informed the Oslo police about this situation and requested that charges be brought against the owner of the agency on the basis of section 349a of the Norwegian Penal Code. Following the investigation, the police ordered the agency's owner to pay a fine of NKr 5,000. The owner, however, appealed the decision and was acquitted. The Norwegian Supreme Court, in a ruling of 27 August 1999, declared that the acts in question were not covered by section 349a and rejected the appeal. Pursuant to the rules of procedure of the Committee, the petitioner should have submitted his case on or before 27 February 2000. Since he submitted his communication on 12 April 2000, the communication was deemed inadmissible ratione temporis. The text of the decision is reproduced in full in annex III.A.

449. At its fifty-ninth session, the Committee adopted its Opinion on communication No. 11/1998 (Lacko v. Slovak Republic), which is reproduced in annex III.B. In this case the petitioner claimed that he had been denied access to a railway station restaurant in Kosice, Slovakia, because of his Romany ethnicity. The State party responded that the matter had been investigated and initially filed, but that subsequently the Kosice District Prosecutor had indicted the owner of the restaurant for this offence and that the court had declared him guilty and sentenced him to pay a fine of SK 5,000, or, alternatively, to serve a term of three months' imprisonment. The sentence became effective on 25 July 2000. In the view of the Committee, the conviction of the restaurant owner and the penalty imposed, albeit long after the events, constituted sanctions compatible with the obligations of the State party under the Convention. Taking due account of this conviction, the Committee made no finding of a violation of the Convention by the State party. Nevertheless, the Committee recommended that the State party amend its legislation in order to guarantee the right of access to public places in conformity with article 5 (f) of the Convention and to sanction the refusal of access to such places on the grounds of race. The Committee also recommended that the State party take the necessary measures to ensure that the procedure for the investigation of violations is not unduly prolonged.

450. Also at its fifty-ninth session, the Committee declared communication No. 19/2000 (Mostafa v. Denmark) inadmissible on account of non-exhaustion of domestic remedies. In that case the petitioner had applied for an apartment in the locality of Hoje-Taastrup, which was denied to him on questionable grounds. Upon review of the file, the local authority decided that his application for a dwelling should be approved. However, the apartment in question had already been assigned to another tenant and the petitioner had removed his name from the waiting list for apartments. Thus, the only remedy available to him was to file a claim for compensation. The State party indicated the recourse procedures of which the petitioner could

avail himself. Therefore, the Committee decided that the case was inadmissible, but that, pursuant to rule 93, paragraph 2, of the Committee's rules of procedure, the petitioner could resubmit the case if he was still dissatisfied following the exhaustion of domestic remedies. The text of this decision is reproduced in annex III.B.

451. Also at this session, two similar communications by the same petitioner were declared inadmissible for non-exhaustion of domestic remedies (Nos. 14/1998 and 21/2001, D.S. v. Sweden) in the context of the petitioner's unsuccessful applications for employment and her failure to pursue available appeal procedures. The text of these decisions is reproduced in annex III.B.

452. Also at this session, the Committee declared communication No. 22/2001 admissible. The merits of the case will be considered at the Committee's sixtieth session.

453. In the Committee's Opinions which find that the Convention has been violated, States parties are urged to adopt corrective measures. In the Opinion concerning case No. 13/1998 (Koptova v. Slovak Republic, adopted on 8 August 2000), the Committee recommended

> "that the State party take the necessary measures to ensure that practices restricting the freedom of movement and residence of Romas under its jurisdiction are fully and promptly eliminated."[14]

454. By note verbale of 5 April 2001, the Slovak Republic forwarded to the Committee the text of a proclamation of the Committee for Human Rights and Nationalities of the National Council of the Slovak Republic, which stated, inter alia,

> "that the Government of the Slovak Republic, other public authorities, as well as the Committee for Human Rights and Nationalities of the National Council of the Slovak Republic already before the publication of the Opinion of the United Nations Committee on the Elimination of Racial Discrimination started taking specific measures in the field of legislature, as well as in the interest of providing suitable accommodation for the Romany families staying in provisional dwellings in the cadastre of the village of Cabiny. The Committee esteems the decision of the Government to free up funds for the reconstruction of a building in Medzilaborce, where social benefit flats for the families concerned will be created."

455. In December 2000 the Office of the High Commissioner for Human Rights established a Petitions Team within the Support Services Branch. The primary goal of the team is to provide enhanced legal assistance to the Committee and to ensure the consistency and coherence of the case law emanating from the three United Nations committees with communications procedures which are serviced by the Office of the High Commissioner for Human Rights: the Committee on the Elimination of Racial Discrimination under article 14 of the Convention, the Committee against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights. Following the establishment of the Petitions Team, the secretariat has introduced new working methods and is endeavouring to take due account of relevant developments in international law, including the

jurisprudence of the human rights regional courts and commissions. It is to be expected that as a result of the Secretary-General's and the High Commissioner's ratification campaigns and the impact of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the number of States parties making the optional declaration under article 14 of the Convention will also grow and that the work of the Committee in its examination of individual complaints will become better known, thus enhancing the opportunities for victims of racial discrimination to obtain redress. As more cases will be registered in the coming years, more time and resources will be needed for the consideration of communications and for the follow-up of the Committee's decisions.

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

456. Under article 15 of the Convention, the Committee on the Elimination of Racial Discrimination is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in those territories.

457. At the request of the Committee, Mr. Pillai examined the documents made available to the Committee in order for it to perform its functions pursuant to article 15 of the Convention. At its 1493rd meeting (fifty-ninth session), Mr. Pillai presented his report, for the preparation of which he took into account the report of the Special Committee on the situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples covering its work during 2000 (A/55/23) and copies of the working papers on the 17 territories prepared by the secretariat for the Special Committee and the Trusteeship Council in 2000 and listed in document CERD/C/393 and Corr.1, as well as in annex IV to the present report.

458. The Committee noted, as it had done in the past, that it was difficult to fulfil its functions under article 15 of the Convention as a result of the absence of any copies of petitions pursuant to paragraph 2 (a) and owing to the fact that the copies of the reports received pursuant to paragraph 2 (b) contain only scant information directly related to the principles and objectives of the Convention. Those reports still do not deal specifically with the question of racial discrimination in the terms of the Convention, although many of them contain sections on general human rights.

459. The Committee was aware that certain States parties had over the years submitted information on the implementation of the Convention in Territories they were administering or which were otherwise under their jurisdiction and to which article 15 also applied. This practice, based on the reporting obligations of States parties pursuant to article 9 of the Convention, must be encouraged and be of a consistent nature. The Committee is mindful, however, that the procedures under article 9 of the Convention should be clearly distinguished from those under article 15.

460. The Committee noted that in the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples reference is made to the relations between the Special Committee and the Committee and to the Special Committee's continuous monitoring of related developments in Territories, having regard to the relevant provisions of article 15 of the Convention. The Committee further noted, however, that issues concerning racial discrimination, and directly

related to the principles and objectives of the Convention, are not reflected in the sections of the report of the Special Committee which deal with the review of work and future work of the Special Committee.

461. The Committee wishes to reiterate the following opinions and recommendations:

(a) The Committee has again not received copies of any petitions pursuant to article 15, paragraph 2 (a), of the Convention. Should pertinent petitions become available, the Committee requests the Secretary-General to provide it with copies of those petitions and any other information relevant to the objectives of the Convention and available to him regarding the Territories mentioned in article 15, paragraph 2 (a);

(b) In the materials to be prepared by its secretariat for the Special Committee and to be made available by the Secretary-General to the Committee on the Elimination of Racial Discrimination pursuant to paragraph 2 (b) of article 15 of the Convention, more systematic attention should be given to matters directly related to the principles and objectives of the Convention. The Special Committee is invited to take this concern into account when planning its work;

(c) States parties which are administering Non-Self-Governing Territories or otherwise exercising jurisdiction over Territories are requested to include or to continue to include in their reports to be submitted pursuant to article 9, paragraph 1, relevant information on the implementation of the Convention in all Territories under their jurisdiction.

VI. ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FIFTY-FIFTH SESSION

462. At its fifty-eighth and fifty-ninth sessions, the Committee considered the agenda item on action taken by the General Assembly at its fifty-fifth session. For its consideration of this item the Committee had before it the report of the Third Committee on the elimination of racism and racial discrimination (A/55/600) and General Assembly resolution 55/81 adopted on that report. Among other things, the General Assembly: (a) took note of the Committee's previous reports[15] and commended it for its work; (b) urged all States that had not yet done so to ratify or accede to the Convention and to review their reservations to the Convention with a view to withdrawing them, and to withdraw reservations contrary to the object and purpose of the Convention; (c) requested the States parties that had not done so to consider making the declaration provided for in article 14; (d) strongly urged States parties to accelerate domestic ratification of the amendments to article 8 of the Convention concerning the financial situation of the Committee; and (e) took note with interest of the Committee's contributions to the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and invited the Committee to continue active participation including at the World Conference itself.

463. Concerning the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights, the Committee had before it the note by the Secretary-General transmitting to the General Assembly the report of the 12th meeting of persons chairing the human rights treaty bodies (A/55/206).

VII. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

A. Reports received by the Committee

464. At its thirty-eighth session in 1988, the Committee decided to accept the proposal of the States parties that States parties submit a comprehensive report every four years and a brief updating report in the two-year interim. Other relevant working methods developments are discussed in chapter IX. Table 1 lists reports received from 28 August 2000 to 17 August 2001.

Table 1. Reports received during the period under review (28 August 2000 to 17 August 2001)

State party	Type of report	Date on which the report was due	Document Number
Armenia	Third report Fourth report	23 July 1998 23 July 2000	CERD/C/352/Add.2
Austria	Fourteenth report	8 June 1999	CERD/C/362/Add.7
Belgium	Eleventh report Twelfth report Thirteenth report	6 September 1996 6 September 1998 6 September 2000	CERD/C/381/Add.1
Canada	Thirteenth report Fourteenth report	13 November 1995 13 November 1997	CERD/C/320/Add.5
China	Eighth report Ninth report	28 January 1997 28 January 1999	CERD/C/357/Add.4 (Parts I, II and III)
Costa Rica	Sixteenth report	4 January 2000	CERD/C/384/Add.5
Croatia	Fourth report Fifth report	8 October 1998	CERD/C/373/Add.1
Denmark	Fifteenth report	8 January 2001	CERD/C/408/Add.1
Egypt	Thirteenth report Fourteenth report Fifteenth report Sixteenth report	4 January 1994 4 January 1996 4 January 1998 4 January 2000	CERD/C/384/Add.3
Greece	Twelfth report Thirteenth report Fourteenth report Fifteenth report	18 July 1993 18 July 1995 18 July 1997 18 July 1999	CERD/C/363/Add.4/Rev.1

State party	Type of report	Date on which the report was due	Document Number
Jamaica	Eighth report	4 July 1986	CERD/C/383/Add.1
	Ninth report	4 July 1988	
	Tenth report	4 July 1990	
	Eleventh report	4 July 1992	
	Twelfth report	4 July 1994	
	Thirteenth report	4 July 1996	
	Fourteenth report	4 July 1998	
	Fifteenth report	4 July 2000	
Liechtenstein	Initial report	31 March 2001	CERD/C/394/Add.1
Lithuania	Initial report	9 January 2000	CERD/C/369/Add.2
Poland	Fifteenth report	4 January 1998	CERD/C/384/Add.6
	Sixteenth report	4 January 2000	
Qatar	Ninth report	21 August 1993	CERD/C/360/Add.1
	Tenth report	21 August 1995	
	Eleventh report	21 August 1997	
	Twelfth report	21 August 1999	
Republic of Moldova	Initial report	25 February 1994	CERD/C/372/Add.2
	Second report	25 February 1996	
	Third report	25 February 1998	
	Fourth report	25 February 2000	
Senegal	Eleventh report	19 May 1993	CERD/C/408/Add.2
	Twelfth report	19 May 1995	
	Thirteenth report	19 May 1997	
	Fourteenth report	19 May 1999	
	Fifteenth report	19 May 2001	
Slovenia	Fifth report	6 July 2001	CERD/C/398/Add.1
Sri Lanka	Seventh report	20 March 1995	CERD/C/357/Add.3
	Eighth report	20 March 1997	
	Ninth report	20 March 1999	
Switzerland	Second report	29 December 1997	CERD/C/351/Add.2
	Third report	29 December 1999	

State party	Type of report	Date on which the report was due	Document Number
Trinidad and Tobago	Eleventh report	3 November 1994	CERD/C/382/Add.1
	Twelfth report	3 November 1996	
	Thirteenth report	3 November 1998	
	Fourteenth report	3 November 2000	
Uganda	Second report	21 December 1983	CERD/C/378/Add.1
	Third report	21 December 1985	
	Fourth report	21 December 1987	
	Fifth report	21 December 1989	
	Sixth report	21 December 1991	
	Seventh report	21 December 1993	
	Eighth report	21 December 1995	
	Ninth report	21 December 1997	
	Tenth report	21 December 1999	
United Republic of Tanzania	Eighth report	26 November 1987	CERD/C/362/Add.9
	Ninth report	26 November 1989	
	Tenth report	26 November 1991	
	Eleventh report	26 November 1993	
	Twelfth report	26 November 1995	
	Thirteenth report	26 November 1997	
	Fourteenth report	26 November 1999	
United States of America	Initial report	20 November 1995	CERD/C/351/Add.1
	Second report	20 November 1997	
	Third report	20 November 1999	
Yemen	Eleventh report	17 November 1993	CERD/C/362/Add.8
	Twelfth report	17 November 1995	
	Thirteenth report	17 November 1997	
	Fourteenth report	17 November 1999	

B. Reports not yet received by the Committee

465. Table 2 lists reports which were due before the end of the fifty-ninth session but which have not yet been received.

Table 2. Reports due before the closing date of the fifty-ninth session (17 August 2001) but which have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Afghanistan	Second report	5 August 1986	12
	Third report	5 August 1988	10
	Fourth report	5 August 1990	8
	Fifth report	5 August 1992	7
	Sixth report	5 August 1994	6
	Seventh report	5 August 1996	5
	Eighth report	5 August 1998	3
	Ninth report	5 August 2000	1
Albania	Initial report	10 June 1995	5
	Second report	10 June 1997	4
	Third report	10 June 1999	2
	Fourth report	10 June 2001	1
Algeria	Fifteenth report	15 March 2001	-
Antigua and Barbuda	Initial report	24 November 1989	6
	Second report	24 November 1991	6
	Third report	24 November 1993	5
	Fourth report	24 November 1995	5
	Fifth report	24 November 1997	4
	Sixth report	24 November 1999	2
Argentina	Sixteenth report	4 January 2000	1
Austria	Fifteenth report	8 June 2001	-
Australia	Thirteenth report	30 October 2000	-
Bahamas	Fifth report	4 September 1984	14
	Sixth report	4 September 1986	10
	Seventh report	4 September 1988	8
	Eighth report	4 September 1990	8
	Ninth report	4 September 1992	7
	Tenth report	4 September 1994	6
	Eleventh report	4 September 1996	5
	Twelfth report	4 September 1998	3
	Thirteenth report	4 September 2000	1
Bahrain	Sixth report	26 April 2001	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Barbados	Eighth report	8 December 1987	9
	Ninth report	8 December 1989	9
	Tenth report	8 December 1991	6
	Eleventh report	8 December 1993	5
	Twelfth report	8 December 1995	5
	Thirteenth report	8 December 1997	3
	Fourteenth report	8 December 1999	2
Belarus	Fifteenth report	8 May 1998	3
	Sixteenth report	8 May 2000	2
Bolivia	Thirteenth report	22 October 1995	5
	Fourteenth report	22 October 1997	4
	Fifteenth report	22 October 1999	2
Bosnia and Herzegovina[a]	Initial report	16 July 1994	5
	Second report	16 July 1996	5
	Third report	16 July 1998	3
	Fourth report	16 July 2000	2
Botswana	Sixth report	22 March 1985	13
	Seventh report	22 March 1987	10
	Eighth report	22 March 1989	8
	Ninth report	22 March 1991	7
	Tenth report	22 March 1993	5
	Eleventh report	22 March 1995	5
	Twelfth report	22 March 1997	4
	Thirteenth report	22 March 1999	2
	Fourteenth report	22 March 2001	1
Brazil	Fourteenth report	4 January 1996	5
	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Burkina Faso	Twelfth report	17 August 1997	4
	Thirteenth report	17 August 1999	2
	Fourteenth report	17 August 2001	1
Burundi	Eleventh report	26 November 1998	3
	Twelfth report	26 November 2000	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Cambodia	Eighth report	28 December 1998	2
	Ninth report	28 December 2000	1
Cameroon	Fourteenth report	24 July 1998	3
	Fifteenth report	24 July 2000	2
Canada	Fifteenth report	13 November 1999	1
Cape Verde	Third report	2 November 1984	14
	Fourth report	2 November 1986	11
	Fifth report	2 November 1988	9
	Sixth report	2 November 1990	8
	Seventh report	2 November 1992	6
	Eighth report	2 November 1994	6
	Ninth report	2 November 1996	5
	Tenth report	2 November 1998	3
	Eleventh report	2 November 2000	1
Central African Republic	Eighth report	15 April 1986	12
	Ninth report	15 April 1988	10
	Tenth report	15 April 1990	10
	Eleventh report	15 April 1992	7
	Twelfth report	15 April 1994	6
	Thirteenth report	15 April 1996	5
	Fourteenth report	15 April 1998	3
	Fifteenth report	15 April 2000	2
Chad	Tenth report	16 September 1996	5
	Eleventh report	16 September 1998	3
	Twelfth report	16 September 2000	1
Chile	Fifteenth report	19 November 2000	-
China	Tenth report	28 January 2001	-
Colombia	Tenth report	2 October 2000	-
Congo	Initial report	10 August 1989	5
	Second report	10 August 1991	5
	Third report	10 August 1993	4
	Fourth report	10 August 1995	4
	Fifth report	10 August 1997	3
	Sixth report	10 August 1999	1
	Seventh report	10 August 2001	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Côte d'Ivoire	Fifth report	3 February 1982	19
	Sixth report	3 February 1984	15
	Seventh report	3 February 1986	11
	Eighth report	3 February 1988	8
	Ninth report	3 February 1990	8
	Tenth report	3 February 1992	7
	Eleventh report	3 February 1994	6
	Twelfth report	3 February 1996	5
	Thirteenth report	3 February 1998	3
	Fourteenth report	3 February 2000	2
Cuba	Fourteenth report	16 March 1999	2
	Fifteenth report	16 March 2001	1
Democratic Republic of the Congo	Eleventh report	21 May 1997	4
	Twelfth report	21 May 1999	2
	Thirteenth report	21 May 2001	1
Dominican Republic	Ninth report	24 June 2000	1
Ecuador	Thirteenth report	4 January 1994	4
	Fourteenth report	4 January 1996	4
	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
El Salvador	Ninth report	30 December 1996	4
	Tenth report	30 December 1998	2
	Eleventh report	30 December 2000	1
Estonia	Fifth report	20 November 2000	-
Ethiopia	Seventh report	23 July 1989	6
	Eighth report	23 July 1991	6
	Ninth report	23 July 1993	5
	Tenth report	23 July 1995	5
	Eleventh report	23 July 1997	4
	Twelfth report	23 July 1999	2
	Thirteenth report	23 July 2001	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Fiji	Sixth report	10 February 1984	14
	Seventh report	10 February 1986	10
	Eighth report	10 February 1988	8
	Ninth report	10 February 1990	8
	Tenth report	10 February 1992	7
	Eleventh report	10 February 1994	6
	Twelfth report	10 February 1996	5
	Thirteenth report	10 February 1998	3
	Fourteenth report	10 February 2000	2
Finland	Sixteenth report	13 August 2001	-
France	Fifteenth report	27 August 2000	-
Gabon	Tenth report	30 March 1999	2
	Eleventh report	30 March 2001	1
Gambia	Second report	28 January 1982	19
	Third report	28 January 1984	15
	Fourth report	28 January 1986	11
	Fifth report	28 January 1988	8
	Sixth report	28 January 1990	8
	Seventh report	28 January 1992	7
	Eighth report	28 January 1994	6
	Ninth report	28 January 1996	5
	Tenth report	28 January 1998	3
	Eleventh report	28 January 2000	2
Georgia	Second report	2 July 2001	-
Germany	Sixteenth report	15 June 2000	-
Ghana	Sixteenth report	4 January 2000	1
Greece	Sixteenth report	18 July 2001	-
Guatemala	Eighth report	17 February 1998	3
	Ninth report	17 February 2000	2
Guinea	Twelfth report	13 April 2000	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Guyana	Initial report	17 March 1978	26
	Second report	17 March 1980	22
	Third report	17 March 1982	18
	Fourth report	17 March 1984	13
	Fifth report	17 March 1986	11
	Sixth report	17 March 1988	8
	Seventh report	17 March 1990	8
	Eighth report	17 March 1992	7
	Ninth report	17 March 1994	6
	Tenth report	17 March 1996	5
	Eleventh report	17 March 1998	3
	Twelfth report	17 March 2000	2
Haiti	Fourteenth report	18 January 2000	1
Holy See	Sixteenth report	31 May 2000	1
Hungary	Fourteenth report	4 January 1996	5
	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
India	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Indonesia	Initial report	25 July 2000	-
Iran (Islamic Republic of)	Sixteenth report	4 January 2000	1
Iraq	Fifteenth report	13 February 1999	2
	Sixteenth report	13 February 2001	1
Israel[b]	Tenth report	2 February 1998	3
	Eleventh report	2 February 2000	2
Japan	Third report	14 January 2001	-
Jordan	Thirteenth report	29 June 1999	2
	Fourteenth report	29 June 2001	1
Kazakhstan	Initial report	25 September 1999	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Kuwait	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Kyrgyzstan	Second report	5 October 2000	-
Lao People's Democratic Republic	Sixth report	24 March 1985	12
	Seventh report	24 March 1987	9
	Eighth report	24 March 1989	8
	Ninth report	24 March 1991	6
	Tenth report	24 March 1993	5
	Eleventh report	24 March 1995	5
	Twelfth report	24 March 1997	4
	Thirteenth report	24 March 1999	2
	Fourteenth report	24 March 2001	1
Latvia	Fourth report	14 May 1999	2
	Fifth report	14 May 2001	1
Lebanon	Fourteenth report	12 December 1998	2
	Fifteenth report	12 December 2000	1
Lesotho	Fifteenth report	4 December 2000	-
Liberia	Initial report	5 December 1977	26
	Second report	5 December 1979	22
	Third report	5 December 1981	18
	Fourth report	5 December 1983	15
	Fifth report	5 December 1985	11
	Sixth report	5 December 1987	8
	Seventh report	5 December 1989	8
	Eighth report	5 December 1991	7
	Ninth report	5 December 1993	6
	Tenth report	5 December 1995	5
	Eleventh report	5 December 1997	3
	Twelfth report	5 December 1999	2
Libyan Arab Jamahiriya	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Luxembourg	Tenth report	31 May 1997	4
	Eleventh report	31 May 1999	2
	Twelfth report	31 May 2001	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Madagascar	Tenth report	9 March 1988	9
	Eleventh report	9 March 1990	9
	Twelfth report	9 March 1992	6
	Thirteenth report	9 March 1994	5
	Fourteenth report	9 March 1996	5
	Fifteenth report	9 March 1998	3
	Sixteenth report	9 March 2000	2
Malawi	Initial report	11 July 1997	4
	Second report	11 July 1999	2
	Third report	11 July 2001	1
Maldives	Fifth report	24 May 1993	5
	Sixth report	24 May 1995	5
	Seventh report	24 May 1997	4
	Eighth report	24 May 1999	2
	Ninth report	24 May 2001	1
Mali	Seventh report	15 August 1987	9
	Eighth report	15 August 1989	9
	Ninth report	15 August 1991	7
	Tenth report	15 August 1993	5
	Eleventh report	15 August 1995	5
	Twelfth report	15 August 1997	4
	Thirteenth report	15 August 1999	2
	Fourteenth report	15 August 2001	1
Malta	Fifteenth report	26 June 2000	1
Mauritania	Sixth report	12 January 2000	1
Mauritius	Fifteenth report	29 June 2001	-
Mexico	Twelfth report	22 March 1998	3
	Thirteenth report	22 March 2000	2
Monaco	Initial report	27 October 1996	3
	Second report	27 October 1998	2
	Third report	27 October 2000	1
Mongolia	Sixteenth report	5 September 2000	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Morocco	Fourteenth report	17 January 1998	3
	Fifteenth report	17 January 2000	2
Mozambique	Second report	18 May 1986	12
	Third report	18 May 1988	10
	Fourth report	18 May 1990	10
	Fifth report	18 May 1992	7
	Sixth report	18 May 1994	6
	Seventh report	18 May 1996	5
	Eighth report	18 May 1998	3
	Ninth report	18 May 2000	2
Namibia	Eighth report	11 December 1997	3
	Ninth report	11 December 1999	2
Nepal	Fifteenth report	1 March 2000	1
Netherlands	Fifteenth report	9 January 2001	-
New Zealand	Twelfth report	22 December 1995	5
	Thirteenth report	22 December 1997	3
	Fourteenth report	22 December 1999	2
Nicaragua	Tenth report	17 March 1997	4
	Eleventh report	17 March 1999	2
	Twelfth report	17 March 2001	1
Niger	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Nigeria	Fourteenth report	4 January 1996	5
	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Pakistan	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Panama	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Papua New Guinea	Second report	26 February 1985	13
	Third report	26 February 1987	10
	Fourth report	26 February 1989	8
	Fifth report	26 February 1991	7
	Sixth report	26 February 1993	5
	Seventh report	26 February 1995	5
	Eighth report	26 February 1997	4
	Ninth report	26 February 1999	2
	Tenth report	26 February 2001	1
Peru	Fourteenth report	29 October 1998	3
	Fifteenth report	29 October 2000	1
Philippines	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Republic of Korea	Eleventh report	4 January 2000	1
Russian Federation	Fifteenth report	6 March 1998	3
	Sixteenth report	6 March 2000	2
Rwanda	Thirteenth report	16 May 2000	1
Saint Lucia	Initial report	16 March 1991	6
	Second report	16 March 1993	6
	Third report	16 March 1995	5
	Fourth report	16 March 1997	4
	Fifth report	16 March 1999	2
	Sixth report	16 March 2001	1
Saint Vincent and the Grenadines	Second report	9 December 1984	13
	Third report	9 December 1986	10
	Fourth report	9 December 1988	8
	Fifth report	9 December 1990	7
	Sixth report	9 December 1992	5
	Seventh report	9 December 1994	5
	Eighth report	9 December 1996	4
	Ninth report	9 December 1998	2
	Tenth report	9 December 2000	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Saudi Arabia	Initial report	22 October 1998	3
	Second report	22 October 2000	1
Seychelles	Sixth report	6 April 1989	6
	Seventh report	6 April 1991	6
	Eighth report	6 April 1993	5
	Ninth report	6 April 1995	5
	Tenth report	6 April 1997	4
	Eleventh report	6 April 1999	2
	Twelfth report	6 April 2001	1
Sierra Leone	Fourth report	4 January 1976	29
	Fifth report	4 January 1978	25
	Sixth report	4 January 1980	23
	Seventh report	4 January 1982	19
	Eighth report	4 January 1984	15
	Ninth report	4 January 1986	11
	Tenth report	4 January 1988	8
	Eleventh report	4 January 1990	8
	Twelfth report	4 January 1992	7
	Thirteenth report	4 January 1994	6
	Fourteenth report	4 January 1996	5
	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
	Supplementary	31 March 1975	1
Slovakia	Fourth report	28 May 2000	1
Solomon Islands	Second report	16 April 1985	13
	Third report	16 April 1987	10
	Fourth report	16 April 1989	9
	Fifth report	16 April 1991	7
	Sixth report	16 April 1993	5
	Seventh report	16 April 1995	5
	Eighth report	16 April 1997	4
	Ninth report	16 April 1999	2
	Tenth report	16 April 2001	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Somalia	Fifth report	25 September 1984	14
	Sixth report	25 September 1986	11
	Seventh report	25 September 1988	9
	Eighth report	25 September 1990	8
	Ninth report	25 September 1992	7
	Tenth report	25 September 1994	6
	Eleventh report	25 September 1996	5
	Twelfth report	25 September 1998	3
	Thirteenth report	25 September 2000	1
South Africa	Initial report	9 January 2000	1
Spain	Sixteenth report	4 January 2000	1
Sri Lanka	Tenth report	20 March 2001	-
Sudan	Twelfth report	20 April 2000	-
Suriname	Initial report	14 April 1985	13
	Second report	14 April 1987	10
	Third report	14 April 1989	8
	Fourth report	14 April 1991	7
	Fifth report	14 April 1993	5
	Sixth report	14 April 1995	5
	Seventh report	14 April 1997	4
	Eighth report	14 April 1999	2
	Ninth report	14 April 2001	1
Swaziland	Fifteenth report	7 May 1998	3
	Sixteenth report	7 May 2000	2
Sweden	Fifteenth report	5 January 2001	-
Syrian Arab Republic	Sixteenth report	21 May 2000	1
Tajikistan	Initial report	10 February 1996	5
	Second report	10 February 1998	3
	Third report	10 February 2000	2
The former Yugoslav Republic of Macedonia	Fourth report	17 September 1998	3
	Fifth report	17 September 2000	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Togo	Sixth report	1 October 1983	15
	Seventh report	1 October 1985	11
	Eighth report	1 October 1987	8
	Ninth report	1 October 1989	8
	Tenth report	1 October 1991	7
	Eleventh report	1 October 1993	6
	Twelfth report	1 October 1995	5
	Thirteenth report	1 October 1997	4
	Fourteenth report	1 October 1999	2
Tonga	Fifteenth report	17 March 2001	-
Tunisia	Thirteenth report	4 January 1994	5
	Fourteenth report	4 January 1996	5
	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Turkmenistan	Initial report	29 October 1995	5
	Second report	29 October 1997	4
	Third report	29 October 1999	2
United Arab Emirates	Twelfth report	20 July 1997	4
	Thirteenth report	20 July 1999	2
	Fourteenth report	20 July 2001	1
United Kingdom of Great Britain and Northern Ireland	Sixteenth report	6 April 2000	1
Uruguay	Sixteenth report	4 January 2000	1
Uzbekistan	Third report	28 October 2000	1
Venezuela	Fourteenth report	4 January 1996	5
	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Viet Nam	Tenth report	9 July 2001	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Yugoslavia[c]	Fifteenth report	4 January 1998	3
	Sixteenth report	4 January 2000	2
Zambia	Twelfth report	5 March 1995	5
	Thirteenth report	5 March 1997	4
	Fourteenth report	5 March 1999	2
	Fifteenth report	5 March 2001	1
Zimbabwe	Fifth report	12 June 2001	1

[a] For a report submitted in compliance with a special decision of the Committee taken at its forty-second session (1993), see CERD/C/247.

[b] For a report submitted in compliance with a special decision of the Committee taken at its forty-fourth session (1994), see CERD/C/282.

[c] For a report submitted in compliance with a special decision of the Committee taken at its fifty-third session (1998), see CERD/C/364.

C. Action taken by the Committee to ensure submission of reports by States parties

466. At its fifty-eighth and fifty-ninth sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

467. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were excessively overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were excessively overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue. The question of the extent to which conclusions communicated to the State party under the review procedure could be based upon that material remains a matter of ongoing discussion (CERD/C/SR.1463).

468. Following its fifty-seventh session, the Committee decided to schedule at its fifty-eighth session a review of the implementation of the provisions of the Convention in the following States parties whose periodic reports were seriously overdue: Côte d'Ivoire, Fiji, Gambia, Jamaica, Lao People's Democratic Republic, Senegal, Sierra Leone and Togo. Reports were subsequently submitted by Jamaica and Senegal. In the cases of Fiji and the Lao People's Democratic Republic, the reviews were postponed at the request of the States parties which indicated their intention to submit the requested reports shortly. The situation in Côte d'Ivoire was removed from the review procedure and proposed for consideration instead under the Committee's early warning and urgent action procedure (CERD/C/SR.1438 and CERD/C/SR.1452), prior to postponement to a subsequent session on the undertaking of the State parties to submit the requested reports within a four-month period (CERD/C/SR.1459).

469. Following its fifty-eighth session, the Committee decided to schedule at its fifty-ninth session a review of the implementation of the provisions of the Convention in the following States parties whose initial and periodic reports were seriously overdue: Barbados, Bolivia, Bosnia and Herzegovina, Liberia, Mali, Uganda, United Republic of Tanzania and Yemen. Hungary was also originally listed for consideration, but was withdrawn from the list prior to the fifty-ninth session after it indicated that the overdue reports were at an advanced stage of preparation and would be submitted shortly. Tanzania, Uganda and Yemen submitted their overdue reports during or immediately prior to the fifty-ninth session. Barbados, Bolivia, Bosnia and Herzegovina and Mali were removed from the review procedure upon application of the States parties concerned, having regard to the state of progress in connection with the overdue reports' preparation and undertakings to submit them within a short time. In the case of Mali, dialogue with representatives of the State party took place on the basis of an oral preliminary report (CERD/C/SR.1477). In the cases of Bolivia and Bosnia and Herzegovina, political and economic exigencies were also considered by the Committee to be relevant.

470. The Committee again requested the Secretary-General to continue sending reminders automatically to those States parties whose reports were overdue.

VIII. THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

471. The Committee considered the question of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Third Decade to Combat Racism and Racial Discrimination at its fifty-eighth and fifty-ninth sessions.

472. For the consideration of this item, the Committee had before it the following documents.

General

(a) General Assembly resolution 55/84 on the Third Decade to Combat Racism and Racial Discrimination and the convening of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

(b) Commission on Human Rights resolution 2001/5 on racism, racial discrimination, xenophobia and related intolerance;

(c) Report of the Secretary-General on the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and Implementation of the Programme of Action for the Third Decade to Combat Racism (A/55/285);

(d) Report of the Secretary-General submitted pursuant to Commission resolution 2000/14 (E/CN.4/2001/20);

(e) Report of the High Commissioner for Human Rights submitted pursuant to General Assembly resolution 48/141 (E/CN.4/2001/16)

(f) Report by Mr. Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, submitted pursuant to Commission resolution 2000/14 (E/CN.4/2001/21 and Corr.1);

(g) Report of the Preparatory Committee of the World Conference on its first session (A/CONF.189/PC.1/21);

(h) Elements for a draft declaration and programme of action for the World Conference: note by the Secretary-General (A/CONF.189/WG.1/3);

(i) Compilation of the secretariat's draft Declaration and Programme of Action, and the final documents of the regional intergovernmental meetings held in Strasbourg, Santiago de Chile, Dakar and Tehran: note by the secretariat (A/CONF.189/PC.2/29);

(j) Draft Declaration and Programme of Action as at the end of the second session of the Preparatory Committee for the World Conference (A/CONF.189/PC.2/L.1/Add.1);

(k) Draft report of the Preparatory Committee for the World Conference on its second session (A/CONF.189/PC.2/L.1);

(l) Suggestions made at the informal consultations of the Preparatory Committee for the World Conference, Geneva, 15-16 January 2001, regarding the content of the draft Declaration and Programme of Action (WCR/IC/2001/Misc.3);

(m) Note by the Secretariat transmitting the proposals made at the first and second sessions of the inter-sessional open-ended working group of the Preparatory Committee for the World Conference, held from 6 to 9 March and 7 to 11 May 2001 (A/CONF.189/PC.2/27);

Written contributions of human rights mechanisms to the preparatory process for the World Conference

(n) Contributions of the Committee on the Elimination of Racial Discrimination (A/CONF.189/PC.1/12 and A/CONF.189/PC.2/13);

(o) Contribution of the Committee on Economic, Social and Cultural Rights (A/CONF.189/PC.2/16);

(p) Contribution of the Committee against Torture (A/CONF.189/PC.2/17);

(q) Contribution of the Committee on the Rights of the Child ((A/CONF.189/PC.2/15);

(r) Contribution of the Human Rights Committee (A/CONF.189/PC.2/14);

(s) Contribution of the Committee on the Elimination of Discrimination against Women (A/CONF.189/PC.2/28);

(t) Note by the Secretary-General transmitting the study prepared by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/CONF.189/PC.2/21 and Corr.1);

Regional meeting conclusions

(u) Final document of the European Conference against Racism, Strasbourg, France, 11-13 October 2000 (A/CONF.189/PC.2/6);

(v) Report of the Regional Conference of the Americas, Santiago, Chile, 5-7 December 2000 (A/CONF.189/PC.2/7);

(w) Report of the Regional Conference for Africa, Dakar, 22-24 January 2001 (A/CONF.189/PC.2/8);

(x) Report of the Asian Preparatory Meeting, Tehran, 19-21 February 2001 (A/CONF.189/PC.2/9);

Expert meetings

(y) Report of the Central and Eastern European regional seminar of experts on the protection of minorities and other vulnerable groups and strengthening human rights capacity at the national level, Warsaw, 5-7 July 2000 (A/CONF.189/PC.2/2);

(z) Report of the Asian-Pacific regional seminar of experts on migrants and trafficking in persons with particular reference to women and children, Bangkok, 5-7 September 2000 (A/CONF.189/PC.2/3);

(aa) Report of the Seminar of Experts on the Prevention of Ethnic and Racial Conflicts in Africa, Addis Ababa, 4-6 October 2000 (A/CONF.189/PC.2/4);

(bb) Report of the Latin American and Caribbean regional seminar of experts on economic, social and legal measures to combat racism, with particular reference to vulnerable groups, Santiago, 25-27 October 2000 (A/CONF.189/PC.2/5).

473. The Committee finalized its written contribution to the preparatory process of the World Conference (A/CONF.189/PC.2/13) in January 2001, addressing the five main themes of the World Conference. More specifically, at its fifty-eighth session, the Committee developed a number of targeted written contributions for the World Conference in the form of suggested amendments to the draft Declaration and Programme of Action.

474. At their fifty-fifth and fifty-seventh sessions, respectively, the General Assembly and the Commission on Human Rights reiterated their invitations to the Committee to participate actively in the preparatory process for the World Conference and at the World Conference itself.[16] Ms. McDougall and Ms. January-Bardill represented the Committee at the meeting of the inter-sessional open-ended working group of the Preparatory Committee for the World Conference held in Geneva from 6 to 9 March 2001. Mr. Sherifis, Ms. McDougall and Ms. January-Bardill represented the Committee at the second session of the Preparatory Committee for the World Conference in Geneva held from 21 May to 1 June 2001. With the World Conference budget providing for the attendance of six Committee members at the World Conference itself, the Committee nominated the following members to attend on its behalf: Ms. January-Bardill, Ms. McDougall, Mr. Reshetov, Mr. Sherifis (Chairman), Mr. Tang, and Mr. Yutzis. It was further agreed that other Committee members attending the Conference would also officially form part of the Committee delegation.

475. At its fifty-ninth session, the Committee adopted the following proposal on the question of reparations for slavery, the slave trade, colonization, apartheid, foreign occupation and other forms of servitude, for submission to the third session of the Preparatory Committee:

> "Proposal by the Committee on the Elimination of Racial Discrimination
>
> "The World Conference, reaffirming the principles of dignity and equality inherent in all human beings, who are entitled to equal protection of the law against any discrimination and against any incitement to discrimination, recognizes the adverse consequences on the enjoyment of human rights of slavery, the slave trade, colonialism, apartheid, foreign occupation and other forms of servitude.
>
> "The World Conference, taking into account the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, encourages States to promulgate and apply social, economic, cultural and other measures to make reparation for and correct the adverse consequences of those practices on victims who are still most affected by them, with the purpose of ensuring the adequate development and protection of those victims."

IX. OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE

476. An overview of the methods of work of the Committee was included in its report to the fifty-first session of the General Assembly.[17] It highlighted changes introduced in recent years and was designed to make the Committee's procedures more transparent and accessible to both States parties and the public. The reader is invited to consult the overview contained in that previous report to the General Assembly.

477. The Committee reviewed several aspects of its working methods at its fifty-eighth session. Most significantly, on the question of the periodicity of reporting obligations under article 9, at the Committee's request the Rapporteur of the Committee, Mr. Bossuyt, developed a proposal in the following terms (see CERD/C/SR.1446 and CERD/C/SR.1454):

> "In a case where the period between the date of the examination of the last periodic report and the scheduled date for the submission of the next periodic report is less than two years, the Committee may suggest in its concluding observations that the State party concerned, if it so wishes, submit the latter report jointly with the periodic report to be submitted at the following date fixed in accordance with article 9 of the Convention."

478. The Committee implemented this initiative in its concluding observations at both its fifty-eighth and fifty-ninth sessions, and declared its intention to review and, if necessary, revise the practice in the light of further experience.

479. The Committee at its fifty-eighth session also discussed its practices concerning the adoption of concluding observations in meetings that are open to the public, and on the role of information from non-official sources (including information from NGOs) in the Committee's work. As to the first issue, the Committee by consensus reaffirmed its position that in the interest of transparency the adoption of concluding observations in public meetings should continue, subject to immediate notification to States parties once the concluding observations in a given case are finalized, as is the current practice. As to the second issue, the Committee by consensus reaffirmed the importance of maintaining members' access as independent experts to all relevant sources of information.

480. At its fifty-ninth session the Committee decided to introduce the item "working methods" on the agenda of its sixtieth session in March 2002. Moreover in the case of the concluding observations for Liberia (see chap. III) the Committee considerably strengthened its review procedures for States parties whose reports are more than five years overdue, considered to be justified on the basis of the seriousness of the violations of the Convention's provisions in that country and the fact that no report had ever been submitted under article 9.

X. DECISIONS

481. The following decisions were adopted by the Committee at its fifty-ninth session:

Decision 1 (59) on Cyprus

The Committee on the Elimination of Racial Discrimination,

Having considered the fifteenth and sixteenth periodic reports of Cyprus under the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling the concerns expressed in its earlier decisions and concluding observations on Cyprus,

Deeply regretting that the Government of Cyprus continues to be prevented from implementing the Convention on the whole of its national territory owing to the foreign occupation of part of that territory,

1. Reaffirms the importance of putting an end to the foreign occupation of Cyprus so that all human rights and freedoms will be enjoyed by all Cypriots irrespective of their ethnic origin, as envisaged in the International Convention on the Elimination of All Forms of Racial Discrimination, in particular the rights to freedom of movement and residence and to own property throughout Cyprus;

2. Requests the United Nations Secretary-General to call the attention of the Security Council, the General Assembly and other appropriate bodies of the United Nations to this decision, in the earnest hope that they will take the measures required for the implementation of their relevant resolutions and decisions.

1483rd meeting
10 August 2001

Decision 2 (59) on Liberia

The Committee on the Elimination of Racial Discrimination,

Having considered the situation in Liberia under the International Convention on the Elimination of All Forms of Racial Discrimination while also remaining seized of the situation in Liberia under its early warning and urgent action procedures,

Recalling the concerns expressed in its decision 3 (49) of 22 August 1996 on Liberia,

Regretting that the Government of Liberia has failed to submit even its initial report in accordance with article 9 of the Convention in the 25 years since it ratified the Convention in 1976, Deeply concerned about credible reports of widespread violations in Liberia of the rights guaranteed under the Convention,

1. Considers the situation in Liberia to be extremely grave with respect to the implementation of the Convention;

2. Urges the Republic of Liberia to take immediate and effective measures to fulfil its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, including its reporting obligations under article 9;

3. Expresses its willingness to send one or more of its members to visit Liberia with a view to initiating a dialogue with the Government of Liberia and assisting it in fulfilling its obligations under the Convention.

1488th meeting
14 August 2001

Decisions regarding organizational matters adopted by the Committee at its fifty-ninth session

Decision 3 (59)

The Committee on the Elimination of Racial Discrimination,

Decides that the Chairperson of the Committee or his or her designated representative shall attend meetings of the United Nations organ to which the Committee's annual reports are submitted at the time that those reports are being considered. The Committee requests the Office of the United Nations High Commissioner for Human Rights to provide the funding to implement this decision, if necessary through the plans of action.

Decision 4 (59)

The Committee on the Elimination of Racial Discrimination,

Decides to be represented by its Chairman at the Nineteenth Meeting of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, to be held at United Nations Headquarters in January 2002. The Committee requests the Office of the United Nations High Commissioner for Human Rights to provide the funding to implement this decision, if necessary through the plans of action.

Notes

[1] The list of members does not include the vacancy left by the resignation in March 2001 by Peter Nobel, whose term was due to expire on 29 January 2002.

[2] Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18 (A/8718), chap. IX, sect. B.

[3] Ibid., Forty-eighth Session, Supplement No. 18 (A/48/18), annex III, sect. A.

[4] Ibid., Fifty-fourth Session, Supplement No. 18 (A/54/18), chap. II, sect. A.

[5] Ibid., Thirty-seventh Session, Supplement No. 18 (A/37/18), paras. 61-71.

[6] Ibid., Forty-sixth Session, Supplement No. 18 (A/47/18), paras. 302-305 and ibid., Fifty-first Session, Supplement No. 18 (A/51/18), paras. 259-261.

[7] Ibid., Twenty-ninth Session, Supplement No. 18 (A/9618), paras. 189-193.

[8] Ibid., Forty-sixth Session, Supplement No. 18 (A/46/18), paras. 279-282.

[9] Ibid., Fiftieth Session, Supplement No. 18 (A/50/18), paras. 587-590.

[10] Ibid., Fifty-first Session, Supplement No. 18 (A/51/18), paras. 431-433; see also document CERD/C/SR.1165.

[11] Ibid., Fiftieth Session, Supplement No. 18 (A/50/18), para. 104; see also document CERD/C/304/Add.68.

[12] Ibid., Forty-eighth Session, Supplement No. 18 (A/48/18), paras. 348-358.

[13] Ibid., Fifty-first Session, Supplement No. 18 (A/51/18), chap. II, sect. B.

[14] Ibid., Fifty-fifth Session, Supplement No. 18 (A/55/18), annex III, sect. B, Koplova v. Slovak Republic, para. 10.3.

[15] Ibid., Fifty-fourth Session, Supplement No. 18 and addendum (A/55/18 and Add.1) and ibid., Fifty-fifth Session, Supplemment No. 18 and addendum (A/55/18 and Add.1).

[16] General Assembly resolutions 55/81 I, para. 10 and 55/84 II, para. 27 and Commission on Human Rights resolution 2001/5, para. 61.

[17] Official Records of the General Assembly, Fifty-first Session, Supplement No. 18 (A/51/18), paras. 587-627.

ANNEX I

STATUS OF THE CONVENTION

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (158), as at 17 August 2001*

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Afghanistan	6 July 1983[a]	5 August 1983
Albania	11 May 1994[a]	10 June 1994
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988[a]	24 November 1988
Argentina	2 October 1968	4 January 1969
Armenia	23 June 1993[a]	23 July 1993
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Azerbaijan	16 August 1996[a]	15 September 1996
Bahamas	5 August 1975[b]	4 September 1975
Bahrain	27 March 1990[a]	26 April 1990
Bangladesh	11 June 1979[a]	11 July 1979
Barbados	8 November 1972[a]	8 December 1972
Belarus	8 April 1969	8 May 1969
Belgium	7 August 1975	6 September 1975
Bolivia	22 September 1970	22 October 1970
Bosnia and Herzegovina	16 July 1993[b]	16 July 1993
Botswana	20 February 1974[a]	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974[a]	17 August 1974
Burundi	27 October 1977	26 November 1977
Cambodia	28 November 1983	28 December 1983
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	13 November 1970

---

* The following States have signed but not ratified the Convention: Belize, Benin, Bhutan, Comoros, Grenada, Guinea-Bissau, Paraguay, Sao Tome and Principe and Turkey.

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Cape Verde	3 October 1979[a]	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977[a]	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981[a]	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988[a]	10 August 1988
Costa Rica	16 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973[a]	3 February 1973
Croatia	12 October 1992[b]	8 October 1991
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czech Republic	22 February 1993[b]	1 January 1993
Democratic Republic of the Congo	21 April 1976[a]	21 May 1976
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983[a]	24 June 1983
Ecuador	22 September 1966[a]	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979[a]	30 December 1979
Eritrea	31 July 2001	31 August 2001
Estonia	21 October 1991[a]	20 November 1991
Ethiopia	23 June 1976[a]	23 July 1976
Fiji	11 January 1973[b]	10 February 1973
Finland	14 July 1970	13 August 1970
France	28 July 1971[a]	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978[a]	28 January 1979
Georgia	2 June 1999[a]	2 July 1999
Germany	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Holy See	1 May 1969	31 May 1969
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Indonesia	25 June 1999[a]	25 July 1999
Iran (Islamic Republic of	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Ireland	29 December 2000	28 January 2001
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Japan	15 December 1995	14 January 1996
Jordan	30 May 1974[a]	29 June 1974
Kazakhstan	26 August 1998[a]	25 September 1998
Kuwait	15 October 1968[a]	4 January 1969
Kyrgyzstan	5 September 1997	5 October 1997
Lao People's Democratic Republic	22 February 1974[a]	24 March 1974
Latvia	14 April 1992[a]	14 May 1992
Lebanon	12 November 1971[a]	12 December 1971
Lesotho	4 November 1971[a]	4 December 1971
Liberia	5 November 1976[a]	5 December 1976
Libyan Arab Jamahiriya	3 July 1968[a]	4 January 1969
Liechtenstein	1 March 2000[a]	31 March 2000
Lithuania	10 December 1998	9 January 1999
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Malawi	11 June 1996[a]	11 July 1996
Maldives	24 April 1984[a]	24 May 1984
Mali	16 July 1974[a]	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972[a]	29 June 1972
Mexico	20 February 1975	22 March 1975
Monaco	27 September 1995	27 October 1995
Mongolia	6 August 1969	5 September 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983[a]	18 May 1983
Namibia	11 November 1982[a]	11 December 1982
Nepal	30 January 1971[a]	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978[a]	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967[a]	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982[a]	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982[a]	23 September 1982
Qatar	22 July 1976[a]	21 August 1976
Republic of Korea	5 December 1978[a]	4 January 1979
Republic of Moldova	26 January 1993[a]	25 February 1993
Romania	15 September 1970[a]	15 October 1970
Russian Federation	4 February 1969	6 March 1969
Rwanda	16 April 1975[a]	16 May 1975
Saint Lucia	14 February 1990[b]	16 March 1990
Saint Vincent and the Grenadines	9 November 1981[a]	9 December 1981
Saudi Arabia	22 September 1997	22 October 1997
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978[a]	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Slovakia	28 May 1993[b]	28 May 1993
Slovenia	6 July 1992[b]	6 July 1992
Solomon Islands	17 March 1982[b]	16 April 1982
Somalia	26 August 1975	25 September 1975
South Africa	10 December 1998	9 January 1999
Spain	13 September 1968[a]	4 January 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Sri Lanka	18 February 1982[a]	20 March 1982
Sudan	21 March 1977[a]	20 April 1977
Suriname	15 March 1984[b]	14 April 1984
Swaziland	7 April 1969[a]	7 May 1969
Sweden	6 December 1971	5 January 1972
Switzerland	29 November 1994[a]	29 December 1994
Syrian Arab Republic	21 April 1969[a]	21 May 1969
Tajikistan	11 January 1995[a]	10 February 1995
The former Yugoslav Republic of Macedonia	18 January 1994[b]	17 September 1991
Togo	1 September 1972[a]	1 October 1972
Tonga	16 February 1972[a]	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Turkmenistan	29 September 1994[a]	29 October 1994
Uganda	21 November 1980[a]	21 December 1980
Ukraine	7 March 1969	6 April 1969
United Arab Emirates	20 June 1974[a]	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972[a]	26 November 1972
United States of America	21 October 1994	20 November 1994
Uruguay	30 August 1968	4 January 1969
Uzbekistan	28 September 1995[a]	28 October 1995
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982[a]	9 July 1982
Yemen	18 October 1972[a]	17 November 1972
Yugoslavia	2 October 1967	4 January 1969
Zambia	4 February 1972	5 March 1972
Zimbabwe	13 May 1991[a]	12 June 1991

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (34), as at 17 August 2001

State party	Date of deposit of the declaration	Effective date
Algeria	12 September 1989	12 September 1989
Australia	28 January 1993	28 January 1993
Belgium	10 October 2000	10 October 2000
Bulgaria	12 May 1993	12 May 1993
Chile	18 May 1994	18 May 1994
Costa Rica	8 January 1974	8 January 1974
Cyprus	30 December 1993	30 December 1993
Czech Republic	11 October 2000	11 October 2000
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
Finland	16 November 1994	16 November 1994
France	16 August 1982	16 August 1982
Hungary	13 September 1990	13 September 1990
Iceland	10 August 1981	10 August 1981
Ireland	29 December 2000	28 January 2001
Italy	5 May 1978	5 May 1978
Luxembourg	22 July 1996	22 July 1996
Malta	16 December 1998	16 December 1998
Netherlands	10 December 1971	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Poland	1 December 1999	1 December 1999
Portugal	2 March 2000	2 March 2000
Republic of Korea	5 March 1997	5 March 1997
Russian Federation	1 October 1991	1 October 1991
Senegal	3 December 1982	3 December 1982
Slovakia	17 March 1995	17 March 1995
South Africa	9 January 1999	9 January 1999
Spain	13 January 1998	13 January 1998
Sweden	6 December 1971	5 January 1972
The former Yugoslav Republic of Macedonia	22 December 1999	22 December 1999
Ukraine	28 July 1992	28 July 1992
Uruguay	11 September 1972	11 September 1972
Yugoslavia	27 June 2001	27 June 2001

C. States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties* (32), as at 17 August 2001

State party	Date acceptance received
Australia	15 October 1993
Bahamas	31 March 1994
Bahrain	29 June 2000
Bulgaria	2 March 1995
Burkina Faso	9 August 1993
Canada	8 February 1995
Colombia	5 October 1999
Costa Rica	13 December 2000
Cuba	21 November 1996
Cyprus	29 July 1997
Denmark	3 September 1993
Finland	9 February 1994
France	1 September 1994
Germany	15 January 1996
Guinea	31 May 2000
Iceland	14 March 2001
Iraq	25 May 2001
Ireland	29 December 2000
Liechtenstein	28 April 2000
Mexico	16 September 1996
Netherlands (for the Kingdom in Europe and the Netherlands Antilles and Aruba)	24 January 1995
New Zealand	8 October 1993
Norway	6 October 1993
Republic of Korea	30 November 1993
Seychelles	23 July 1993

---

* For the amendments to enter into force, acceptance must be received from two thirds of the States parties to the Convention.

State party	Date acceptance received
Sweden	14 May 1993
Switzerland	16 December 1996
Syrian Arab Republic	25 February 1998
Trinidad and Tobago	23 August 1993
Ukraine	17 June 1994
United Kingdom of Great Britain and Northern Ireland	7 February 1994
Zimbabwe	10 April 1997

[a] Accession.

[b] Date of receipt of notification of succession.

ANNEX II

AGENDAS OF THE FIFTY-EIGHTH AND FIFTY-NINTH SESSIONS

A. Fifty-eighth session (6-23 March 2001)

1. Approval by the Committee of the experts appointed by two States parties to fill the vacancies resulting from the resignation of two members of the Committee.

2. Adoption of the agenda.

3. Election of the Rapporteur.

4. Organizational and other matters.

5. Prevention of racial discrimination, including early warning measures and urgent action procedures.

6. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

7. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

8. Action by the General Assembly at its fifty-fifth session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

   (b) Effective implementation of international instruments on human rights.

9. Consideration of communications under article 14 of the Convention.

10. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

11. Third Decade to Combat Racism and Racial Discrimination; World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

B. Fifty-ninth session (30 July-17 August 2001)

1. Approval by the Committee of the experts appointed by two States parties to fill the vacancies resulting from the resignation of two members of the Committee.

2. Adoption of the agenda.

3. Organizational and other matters.

4. Prevention of racial discrimination, including early warning measures and urgent action procedures.

5. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

6. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

7. Action by the General Assembly at its fifty-fifth session:

    (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

    (b) Effective implementation of international instruments on human rights.

8. Consideration of communications under article 14 of the Convention.

9. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

10. Third Decade to Combat Racism and Racial Discrimination; World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

11. Report of the Committee to the General Assembly at its fifty-sixth session under article 9, paragraph 2, of the Convention.

ANNEX III

DECISIONS OF THE COMMITTEE UNDER ARTICLE 14 OF THE CONVENTION

A. Fifty-eighth session

Opinion concerning communication No. 15/1999

Submitted by:	E.I.F. (represented by counsel)
Alleged victim:	The author
State party:	The Netherlands
Date of communication:	4 May 1998 (initial submission)
Date of adoption of Committee's opinion:	21 March 2001

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 21 March 2001,

Having concluded its consideration of communication No. 15/1999, submitted to the Committee under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it by the author and the State party,

Bearing in mind rule 95 of its rules of procedure requiring it to formulate its opinion on the communication before it,

Adopts the following:

Opinion

1. The author of the communication is E.I.F., a Dutch citizen of Surinamese origin. His communication was first submitted to the Committee by his counsel on 4 May 1998. On 8 July 1999 counsel provided additional information.

The facts as submitted by the author

2.1 The author claims to have been discharged from the Netherlands Police Academy (NPA) on racial grounds and mentions a number of instances of discrimination that allegedly took place during his training at the Academy between 1991 and 1993, such as the following :

> He used to be told repeatedly that he was a bad learner, that his Dutch was insufficient and that he should pattern himself on the white male police officers.
>
> When a white student was late for his classes it was not registered. If the author arrived slightly late it was registered, resulting in a permanent mark against him.
>
> His sports teacher made him perform an exercise. When it appeared that he did not perform well enough the teacher told the group: "The muscles needed for performing this exercise well are poorly developed in apes".
>
> As part of a sports test, a distance had to be covered within a certain time. When the author had run the distance it appeared that the sports teacher had forgotten to register the time. White students did not experience such problems.
>
> The Academy received an invitation to participate in a football tournament. As a member of the sports committee the author had to decide on the composition of the team. One of the lecturers told him: "See to it that the Academy is well represented, so don't select too many Blacks".
>
> On 9 July 1993 the principal of the Academy informed the author in writing that he would like to have a discussion with him about his study results in the course of August 1993. The author was to be informed during that meeting that he had to finish his exams before the end of October 1993. The author, however, was in Suriname from 8 July to 26 August 1993. Therefore, he could not know anything about the "agreement" with respect to the deadline of October 1993. As a result, the author did not finish his exams before the end of October 1993. The Academy later argued that he had to leave because he had not taken his exams.

2.2 The author further alleges that he was dismissed from the Academy in 1994 after a group of students led by him made a public statement in which they complained about the situation of foreign students. That statement as well as pressure from the media led to the appointment by the Minister of the Interior of the "Boekraad Committee", whose mandate was to examine the complaints about the Police Academy. According to the author, the Committee recognized in its final report that the Academy had committed irregularities which had resulted in the discourteous treatment of a certain group of students and addressed a number of recommendations to the Minister.

2.3 The author brought his case before the Administrative Law Division of the Amsterdam Court, which in its judgement of 3 April 1996 annulled the discharge and recognized that the author had been subjected to discrimination. However, by decision of 6 November 1997 the Central Appeals Court for the public service and social security matters in Utrecht ruled that the discharge decision should stand.

The complaint

3. Counsel claims that the facts, as described above, amount to a violation by the State party of articles 2, 5, 6 and 7 of the Convention. He argues that the acts of discrimination to which the author was subjected resulted in great material and immaterial damage for which he should be compensated.

Observations submitted by the State party

4.1 The State party reports that the recruitment of ethnic minority students to the NPA was originally part of the Police and Ethnic Minorities Project which was followed by the 1988 Police and Ethnic Minorities Affirmative Action Plan. The Police and Ethnic Minorities Organization was established in 1991 and carries out a variety of projects relating to recruitment and selection, training, career guidance and research. In 1991 NPA teaching staff were offered the opportunity to attend a training course to enhance their expertise and to learn how to approach the cultures of ethnic minorities. On 11 March 1992 the Brekelmans Committee was appointed with a view to analysing the integration of ethnic minority students and their ability to adjust and making recommendations. The Committee submitted its final recommendations to the Director of the Police Department on 18 July 1992.

4.2 On 14 December 1993, 21 ethnic minority students attending the NPA, including the author, wrote a letter with the heading "A cry for immediate help" which they sent to the Director-General for Public Order and Safety, the National Police Selection and Training Institute (LSOP) and several trade unions. In the letter the students complained about the discriminatory attitudes to which they had been subjected at the NPA. A different group of ethnic minority students wrote a letter distancing themselves from the content of the letter of 14 December 1993. Both letters prompted the Ministers of the Interior and Justice, in consultation with the LSOP to, inter alia, initiate an inquiry which would focus on the following questions: (a) whether and to what extent ethnic minority students were treated improperly at the NPA and, if so, what action had been taken against it; (b) whether the findings were such as to suggest that measures should be taken and, if so, what should be done to prevent any recurrence; (c) whether ethnic minority students were expected to perform any tasks which they could not reasonably be expected to perform.

4.3 The inquiry was conducted by a three-member committee known as the Boekraad Committee which concluded that there was no systematic institutional discrimination directed against ethnic minority students within the NPA. However, it also concluded that the NPA did not as yet provide truly multicultural education and that the policy intended to achieve this aim was flawed. The Committee made 14 recommendations intended to put in place a genuinely multicultural education. Recommendation 4 envisaged the appointment of a special committee of external experts who would examine the individual cases of a number of ethnic minority students whose studies had stagnated. The Committee on the Progress of Ethnic Minority Students (SAS) was set up to this effect.

4.4 The SAS Committee reported its findings to the Minister of the Interior on 30 August 1995, making recommendations on the cases of the nine students it had looked into. Of the nine, three eventually completed the course, one would graduate within that year, two were appointed elsewhere through an outplacement procedure, two availed themselves of a benefit scheme and one was involved in legal proceedings concerning the question of whether or not he had suffered any loss of income because of his failure to complete the course.

4.5 The author was born in Suriname and has lived in the Netherlands for many years. Prior to his studies at the NPA, he had attended a course of higher professional education at the School of Social Work, after which he worked as a teacher. He entered the NPA on 20 August 1991, having passed through a selection procedure that deviated only in a few minor details from the regular entry process for students of Dutch origin. His admission meant that, as a student, he was at the same time a public servant employed on a temporary contract by the Minister of the Interior.

4.6 On 6 July 1992, at the end of his first year at the NPA, the author was informed by the secretary of the Examining Board that he would not be admitted to the second year, as his results were unsatisfactory. Indeed, his results were such that he could have been expelled from the NPA. However, he was given the opportunity to repeat the first year. At that point the author did not complain about any discriminatory attitudes within the NPA, either regarding himself or his fellow students. At the end of the second year the author's results were again so poor that the teaching staff designated him as a "discussion case". As he had been absent (due to illness) and had therefore not taken all the necessary examinations, the NPA decided to give him another opportunity to sit the exams. To effect this decision the Director of the NPA invited the author to a meeting in order to discuss and evaluate his results.

4.7 At the meeting, held on 6 September 1993, the Director informed the author that he had until the end of October 1993 to sit the remaining exams. The author again said nothing about having suffered discrimination. By 16 September 1993 a draft timetable had been prepared and the author was invited to discuss it. However, he refused to do so. He was subsequently formally invited to sit the examinations. In response he called in sick and did not turn up on the examination dates.

4.8 On 24 September 1993 there was a meeting of the NPA's medico-social team where it was noted that the author's teachers considered him perfectly capable of achieving good results, but that there were doubts about the reasons he had given for his absence. No reference was made to his colour or ethnic background.

4.9 In December 1993 the Examining Board decided to propose to the Director of the NPA that the author's enrolment be terminated as of 1 March 1994. The Director gave the author notice of his dismissal on 26 January 1994, to which the author's representative replied by letters of 18 February 1994 and 24 March 1994. Despite the representative's request that the author be given another opportunity he was released from service as of 1 October 1994.

4.10 The author lodged an objection to his dismissal on 5 August 1994. He alleged that his poor grades and frequent absence were merely a consequence of the way he had been treated by the teaching staff at the NPA. He also maintained that the Minister had wrongly overlooked the above-mentioned recommendation 4 of the Boekraad Committee in his case. At the hearing, held on 26 September 1994 as part of the objections procedure, the author presented examples intended to demonstrate the bias he had encountered from teachers. However, these examples had nothing to do with discrimination:

- The fact that the pass mark for "training sessions" was not allowed to count for the following year;

- The inclusion of the results achieved at the afternoon session in the grade for statistics, in spite of an alleged agreement to the contrary;

- The fact that the second opinion on the author's psychology examination given by a member of staff of the Free University of Amsterdam was ignored;

- The fact that other students were allegedly later given pass marks after discussing their case, whereas the author was not;

- The fact that law graduates had actually failed the statistics examination, but were nevertheless allegedly given pass marks.

4.11 On 1 December 1994 the Minister declared the author's objection unfounded. In reaching this decision he took into consideration that the author had not been promised, as he had claimed, that no steps affecting his legal status would be taken pending the outcome of the Boekraad Committee's inquiry. The Minister also noted that in anticipation of the Committee's recommendations, the dismissal was decided upon with the greatest possible care. In the Minister's view, the dismissal was due to proven unsuitability for the course, as reflected by the author's poor grades, and the author had not satisfactorily established the slightest causal relationship between his poor grades and the discrimination he claimed to have suffered.

4.12 The author appealed the decision to the Amsterdam district court which declared it well-founded on the basis that the Minister should have incorporated the Boekraad Committee's findings into the decision-making process. The court also held that in appointing the SAS Committee, the Minister had implicitly taken responsibility for the problems experienced by ethnic minority students. Inasmuch as the other ethnic minority students had been given an opportunity for an individual assessment by the SAS Committee whereas this had not happened in the author's case, the court ruled that the Minister had acted in a manner incompatible with the principle of equality.

4.13 On 27 February 1997 the Minister appealed from the district court's judgement to the Central Appeals Tribunal. The Minister held, inter alia, that the district court had wrongly assumed that the author was in the same position as the nine ethnic minority students who had been studied in the SAS Committee's inquiry. Those nine students had all had their previous schooling in a country outside the Kingdom and had not been in the Netherlands for very long when they started their studies at the NPA. They were hence not yet fully integrated into Dutch society. Those students had followed a separate entry procedure developed specially for "authentic" ethnic minority students, namely the selection procedure set up under the Affirmative Action Plan. The author did not belong to this category. The selection procedure applied in his case deviated from the regular procedure for students of Dutch origin only in a few minor details. Therefore, there was no reason to subject the author to individual assessment by the SAS Committee.

4.14 The Central Appeals Tribunal declared the Minister's appeal well-founded and quashed the judgement of the district court. It held that neither the Boekraad Committee's report nor the SAS Committee's report provided any grounds for concluding that the author's poor performance was due to discrimination. It also held that the author's situation differed essentially from that of the students who had only lived in the Netherlands for a short time before starting their studies, had a poor command of the Dutch language and were not yet fully integrated into Dutch society. There was therefore no question of any violation of the requirement of due care and/or the principle of equality.

4.15 The State party disputes the author's contention that discrimination and racism are institutional and systematic practices within the police service and that the Minister does not take sufficient appropriate measures to counter them.

4.16 The author maintains, in particular, that the television news programme Netwerk highlighted his situation and the institutional aspect of discrimination within the police service. However, he completely fails to make clear what the context of the documentary in question was and what conclusions should be drawn from it. The State party therefore considers this reference irrelevant to the discussion at hand.

4.17 The author wrongly maintains that the SAS Committee has the appearance of bias, as it was set up by the Minister of the Interior and the NPA. The SAS Committee consisted of six independent individuals and neither the Government nor the NPA had any influence on their work.

4.18 The Government saw the allegations of discrimination on the basis of ethnic origin by the 21 ethnic minority students as grounds for setting up an independent inquiry into the existence of any discrimination. The complaints were investigated and recommendations made to prevent discrimination in the future. All those recommendations were followed. On the basis of these facts it must be concluded that the Government acted in accordance with article 2, paragraph 1 (b), and article 7 of the Convention.

4.19 The author was not selected for an individual investigation by the SAS Committee. One important reason for this was that he had already been dismissed when the Committee started its inquiry. But even if he had still been enrolled at the NPA at that time he would still not have been eligible for selection, as there were no indications whatsoever that his poor results had anything to do with his ethnic background. Nevertheless, the Minister of the Interior did investigate the author's claim that his poor grades were attributable to discrimination on the part of the teachers during the decision-making process surrounding his dismissal, up to and including the hearing by the Central Appeals Tribunal.

4.20 The author does not substantiate his statement that he was dismissed because he was the initiator of the letter "A cry for immediate help" and that the Central Appeals Tribunal made its judgement on the basis of incorrect facts. As for his claim that the Minister did not take the Boekraad Committee's findings into account when making his decision on the author's objection, the State party emphasizes that the Minister did indeed incorporate those findings into the review of his primary decision, but that they did not give him any reason to reverse that decision.

4.21 On the basis of the above the State party states that the Government complied with its obligation under article 5 (a) and article 6 of the Convention to ensure that the victims of racial discrimination have effective legal protection and where necessary receive compensation for any damage suffered as a result of such discrimination. The State party also concludes that it did not commit any violation of the Convention in relation to the author.

Counsel's comments

5.1 Counsel notes that there are a number of inaccuracies in the State party's submission,[1] which show that the case has not been looked into very carefully. For instance, prior to his studies at the NPA the author had lived in the Netherlands for six years and not just "many years", as the State party indicates. Moreover, the author did not study at the School of Social Work; he studied medicine at the University of Amsterdam from 1987 to 1990 and never worked as a teacher.

5.2 Counsel claims that being part of the ethnic minority group of NPA students which did not need extra study facilities (Dutch lessons, for instance) did not protect the author against racial discrimination. The exclusionary mechanisms at the NPA remained intact despite the fact that teaching staff were given the opportunity to attend a training course in order to learn how to deal with students with different cultural backgrounds.

5.3 The letter in response to "A cry for immediate help" did not come from other ethnic minority students but from white students, and it transpired as a result that incidents which could be described as racist had taken place. The white students called for dialogue in order to find a solution.[2]

5.4 Although the Boekraad Committee concluded that there was no institutional discrimination at the NPA, it did state that discrimination occurred and recommended that the NPA institute a specific anti-discrimination code.

5.5 The author complains that the SAS Committee never looked into his case, despite the fact that he was one of the signatories of the letter "A cry for immediate help". He does not understand why the SAS Committee only investigated the cases of 9 students out of the 21 signatories to the letter and expresses doubts about the independence of the SAS Committee with respect to the Ministry of the Interior. He says that the Secretary of the Committee was a staff member of the Police Directorate of the Ministry of the Interior and that the Chairman had been a member of the Boekraad Committee. The author claims that an independent investigation should have looked into all aspects of the problem and not just the case of a few individuals. He also expresses doubts about the independence of the NPA's medico-social team, whose members were all affiliated with the NPA. The team did not fully believe him when he explained the reasons for his absence from school. In fact, everything he says is put into question. A further evidence of discrimination is the fact that the dismissal from the NPA was communicated to him with only two days' notice, instead of three months as required by law. The NPA only rectified that when he threatened legal action.

5.6 The author does not share the State party's view that the incidents he referred to at the hearing held on 26 September 1994 do not constitute discrimination.[3] Those incidents should have been investigated by the SAS Committee, as had been recommended by the Boekraad Committee. The author still does not share the State party's opinion that the Boekraad recommendations did not apply to him and draws the Committee's attention to the fact that the Amsterdam District Court fully agreed with him. Furthermore, the State party seems to imply that, because the author has a good command of the Dutch language, he could not have been subjected to discrimination. He notes that, despite this attribute, he has dark skin colour.

5.7 The author strongly objects to the State party's argument that the reason for the dismissal was his poor results and asserts that his poor results were the direct consequence of his psychological state as a result of having been subjected to discrimination. The State party cannot deny the fact that the number of students belonging to ethnic minorities who left the police was higher than the number of those who joined it and that this was due to institutional discrimination.

5.8 Finally, the author notes that in its observations the State party does not deny that he actually experienced the incidents referred to in paragraph 2.1 above. However, he disagrees with the State party's conclusion that those incidents had been taken into consideration when the decision to dismiss him was taken. Since the incidents in question were at the root of his poor results, his case should have been carefully investigated and the recommendations of the Boekraad Committee implemented.

Issues and proceedings before the Committee

6.1 Before considering any claims contained in a communication the Committee on the Elimination of Racial Discrimination must decide, pursuant to article 14, paragraph 7 (a), of the Convention and rules 86 and 91 of its rules of procedure whether or not the communication is admissible. The Committee notes that the State party does not raise objections to the admissibility of the communication and that it has formulated detailed observations in respect of the substance of the matter. The Committee considers that all requirements set out in the above-mentioned provisions have been met. It therefore decides that the communication is admissible.

6.2 With respect to the merits of the communication, the Committee considers that some of the allegations submitted by the author and summarized in paragraph 2.1 above have racial connotations of a serious nature. However, they did not constitute the object of the claims brought before the Amsterdam District Court and the Central Appeals Tribunal, which dealt mainly with the question of the dismissal from the Police Academy. Furthermore, it does not appear from the information received by the Committee that the decision to dismiss the author from the Police Academy was the result of discrimination on racial grounds. Nor has any evidence been submitted to substantiate the claim that his poor academic results were related to the incidents referred to in paragraph 2.1.

7. The Committee on the Elimination of Racial Discrimination, acting under article 14, paragraph 7 (a), of the International Convention on the Elimination of All Forms of Racial Discrimination, is of the opinion that the facts, as submitted, do not disclose a violation of the Convention by the State party.

Notes

[1] Paragraph 4.5 above.

[2] Paragraph 4.2 above.

[3] Paragraph 4.10 above.

Decision concerning communication No. 18/2000

Submitted by:	F.A.
Alleged victim:	The author
State party:	Norway
Date of communication:	12 April 2000
Date of present decision:	21 March 2001

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 21 March 2001,

Adopts the following:

Decision on admissibility

1. The author of the communication, Mr. F.A., claims to be a victim of a violation of the Convention by Norway. He is represented by the non-governmental organization OMOD (Organisasjonen Mot Offentlig Diskriminering). OMOD brought the general situation to the attention of the Committee for the first time on 6 December 1999. In a letter dated 12 April 2000 OMOD submitted additional information and formally requested that the Committee consider the communication under article 14 of the Convention. The communication was transmitted to the State party on 13 September 2000.

The facts as submitted by the author

2.1 The author reported that he went to the housing agency "Eiendom Service" and paid a fee which entitled him to have access to the lists of vacant accommodation. In checking the lists he found that about half of the housing advertisements clearly indicated that persons from certain groups were not desired as tenants. Statements like "no foreigners desired", "Whites only", "only Norwegians with permanent jobs" punctuated the housing lists.

2.2 On 28 June 1995 the author informed the Oslo police about this situation and requested that charges be brought against the owner of the agency on the basis of section 349a of the Norwegian Penal Code, which reads as follows:

> "Any person who in an occupational or similar activity refuses any person goods or services on the same conditions as apply to others because of his religion, race, colour of his skin, national or ethnic origin, shall be liable to fines or imprisonment for a term not exceeding six months ...

> "The same penalty shall also apply to any person who incites or is in any other way accessory to any act mentioned in the previous paragraph."

2.3 The police took more than two years to investigate the case. During that time they never visited the housing agency in question in order to collect evidence. Finally, on 3 December 1997 the police fined the agency's owner NKr 5,000 or 10 days' imprisonment for contravention of section 349a of the Penal Code. The decision was based on the fact that in the period between December 1995 and January 1996 the owner, through her firm Eiendoms Service, had sold lists of accommodation for rent in which it was stated that certain accommodations were only available to Norwegians in regular employment.

2.4 The owner appealed the decision to the Oslo City Court which, in a judgement of 15 July 1998, decided to acquit her. An appeal against this judgement was filed with the High Court, which rejected it on 18 January 1999. The High Court noted that although the situation fell under section 349a of the Penal Code, the owner had acted in involuntary ignorance of the law. The case was further appealed to the Norwegian Supreme Court which, in a ruling of 27 August 1999, declared that the acts in question were not covered by section 349a and rejected the appeal.

The complaint

3. The author claims that the facts described amount to violation by the State party of the rights to which he is entitled under article 1, paragraph 1, of the Convention.

Observations submitted by the State party

4.1 By submission of 13 December 2000 the State party challenges the admissibility of the communication. It claims that the author has failed to file a communication within the time limit set out in rule 91 (f) of the Committee's rules of procedure. This provision reads as follows: "With a view to reaching a decision on the admissibility of a communication, the Committee ... shall ascertain: ... (f) That the communication is, except in the case of duly verified exceptional circumstances, submitted within six months after all available domestic remedies have been exhausted". The Supreme Court's judgement was delivered on 27 August 2000. The author, who was an OMOD employee, knew about it on the same date. Therefore, the communication should have been submitted to the Committee no later than 27 February 2000.

4.2 The State party claims that OMOD's letter of 6 December 1999 is purely of a general nature and devoid of any content that may help to qualify it as a communication from or on behalf of an alleged victim of a violation. The author's name is not even mentioned in it. The letter does draw the Committee's attention to the Supreme Court's judgement of 27 August 1999, however, this is not sufficient to turn it into an individual communication. Furthermore, the author was not a party to the criminal proceedings, which were based on charges of a general nature initiated by OMOD and not linked to alleged wrongdoings against Mr. F.A. Moreover, the issues raised in the letter have been dealt with in the course of the dialogue between the Committee and the State party under the Committee's reporting procedure. They are also being seriously addressed by Norwegian authorities.

4.3 The State party further argues that the allegation of violation of the Convention is not satisfactorily substantiated for the purpose of admissibility. For instance, neither the letter of 6 December 1999 nor the one of 12 April 2000 specify the provisions of the Convention allegedly violated or the precise object of the communication. In these circumstances it is not possible for the State to provide an adequate response. The letters do not explain either whether the alleged violation is related to the landlords' discrimination or to the agency's activity. In respect of the former, it would be important to know whether the accommodations in question were to be found in the landlords' private houses or they were rented out as part of a larger commercial activity. In respect of the latter, the Norwegian courts considered that the firm Eiendoms Service did not discriminate against its customers.

4.4 The High Court's judgement describes the modus operandi of the firm, an agency for private accommodation rentals. According to it, landlords informed the agency of the accommodation available and the agency listed the offers in a card index which provided factual information on the accommodation offered. A rubric called "Landlord's wishes" was also included in the card index. If the accommodation-hunters were interested in a particular offer in the card index they had to contact the landlord themselves for any further action. Eiendoms Service was not involved in showings, preparation of contracts, etc. The Court found that certain landlords who made use of Eiendoms Service had rejected persons of foreign origin as tenants, however Eiendoms Service did not have any responsibility concerning the landlord's preferences. The Court did not find support in the wording of section 349a of the Penal Code or the travaux préparatoires to cover the services offered by a private landlord when a businessperson is agent for those services. There was no evidence that the agency's owner had any objections or prejudices against, for example, people with different skin colour. On the contrary, she had often assisted foreigners in finding accommodation. The State party claims that the author does not explain the reasons why he disagrees with the Court's conclusions.

Counsel's comments

5.1 Counsel refers to the objections raised by the State party on the basis of rule 91 (f) of the Committee's rules of procedure and argues that the possible shortcomings pointed out by the State party should not exceed what one can expect from a small NGO without legal expertise such as OMOD. Protection from violations by way of bodies like the Committee should be an option for everybody, not only for people with legal expertise.

5.2 The purpose of OMOD's letter of 6 December 1999 was to request the Committee to treat the Supreme Court judgement of 27 August 1999 as an individual complaint under article 14 of the Convention. In the letter, the Committee is explicitly requested to carry out an individual evaluation of the Supreme Court's ruling in relation to the Convention. If the communication was only meant as a general communication from an NGO, as suggested by the State party, it would have been included in the report which OMOD prepares regularly in response to Norway's periodic reports to the Committee. It is true that the author used the opportunity to point to possible large-scale consequences which the judgement may have with regard to the protection of ethnic minorities against racial discrimination and the status of the Convention in Norway. This information, however, should be interpreted as complementary to the individual complaint put forward.

5.3 The letter of 12 April 2000 confirmed that the purpose of the letter dated 6 December 1999 was to have the judgement treated as an individual complaint under article 14 of the Convention and should be regarded as part of the communication submitted on 6 December 1999.

5.4 Counsel agrees that the letter of 6 December 1999 did not indicate the provisions in the Convention that had been violated, however, he considers that the allegations of violations of the Convention should be enough to declare the case admissible. In the letter of 12 April 2000 he claims that the judgement has "refused to give F.A. the rights inherent in article 1.1". Among those rights are the rights referred to in articles 5 (e) (iii), 5 (f) and 6, which are especially relevant to the case of Mr. F.A. Furthermore, it was Mr. F.A. who reported Eiendoms Service to the police. Subsequently, the police brought the case to the High Court and the Supreme Court.

5.5 Counsel claims that the object of the communication is the failure of the Supreme Court to comply with its obligations under the Convention. He also claims that the alleged violation of the Convention is related to the activities of the housing agency, not those of the landlords.

5.6 Regarding the State party's claim that OMOD did not substantiate its claim that the conclusion of the Supreme Court was unwarranted, counsel argues that the agency's owner indeed refused a person "goods or services on the terms applicable to others". The author was not at all offered the same service as ethnic Norwegians. In fact, he was offered a smaller number of vacant flats than other customers due to his ethnic origin, yet he had to pay exactly the same fee to get access to the card index. Furthermore, the author was not informed beforehand that this was the case. This difference in treatment is illegal, regardless of whether it is done on behalf of somebody else, for example a landlord. The owner of the housing agency had written the discriminatory texts on the index cards and knew what that meant to persons of minority background.

5.7 Counsel further argues that the commercial activity of Eiendoms Service cannot be categorized as being within "the private sphere". The agency offered a general service to the public which fits the description of article 5 (f) of the Convention. The activity of Eiendoms Service is therefore a clear case of discrimination in the public sphere, not the private one.

Admissibility considerations

6.1 Before considering the substance of a communication, the Committee on the Elimination of Racial Discrimination examines whether or not the communication is admissible pursuant to article 14, paragraph 7 (a), of the Convention and rules 86 and 91 of its rules of procedure.

6.2 The State party contends that the author's claims are inadmissible for failure to submit a communication within the time limit set out in rule 91 (f) of the Committee's rules of procedure. The Committee recalls that, according to this provision, communications must be submitted to it, except in the case of duly verified exceptional circumstances, within six months after all available domestic remedies have been exhausted.

6.3 The Committee notes that the Norwegian Supreme Court adopted its final decision on the facts that constitute the object of the present communication on 27 August 1999. The author submitted the communication under article 14 of the Convention on 12 April 2000, i.e. more than six months after the date of exhaustion of domestic remedies. Prior to that date, on 6 December 1999, the decision of the Norwegian Supreme Court had been brought to the Committee's attention, but there was no indication that the author had intended to submit a communication under article 14 of the Convention. The general terms in which the letter was drafted suggest that the author wished to submit the facts to the consideration of the Committee within the framework of its activities under article 9 of the Convention.

6.4 Furthermore, the Committee has found no exceptional circumstances that would allow for an exception to the six-month requirement. In these circumstances the Committee notes that the author has failed to meet the requisite of rule 91 (f) of the rules of procedure.

7. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the State party and the author of the communication.

8. The Committee takes this opportunity to urge the State party to take effective measures to ensure that housing agencies refrain from engaging in discriminatory practices and do not accept submissions from private landlords which would discriminate on racial grounds. The Committee recalls in this respect its concluding observations on the consideration of the fifteenth periodic report of Norway, in which it expressed concern that persons seeking to rent or purchase apartments and houses were not adequately protected against racial discrimination on the part of vendors. In this connection the Committee recommended that Norway give full effect to its obligations under article 5 (e) (iii) of the Convention.

B. Fifty-ninth session

Opinion concerning communication No. 11/1998

Submitted by:	Miroslav Lacko
Alleged victim:	The petitioner
State party concerned:	Slovak Republic
Date of communication:	21 October 1998

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 9 August 2001,

Adopts the following:

Opinion

1. The petitioner is Miroslav Lacko, a Slovak citizen of Romany ethnicity. He claims to be a victim of violations by the Slovak Republic of articles 2, 3, 4, 5 and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination. He is represented by the European Roma Rights Center, a non-governmental organization based in Budapest, acting as legal counsel.

The facts as submitted by the petitioner

2.1 On 24 April 1997 the petitioner, accompanied by other persons of Romany ethnicity, went to the Railway Station Restaurant located in the main railway station in Kosice, Slovakia, to have a drink. Shortly after entering the restaurant the applicant and his company were told by a waitress to leave the restaurant. The waitress explained that she was acting in accordance with an order given by the owner of the restaurant not to serve Roma. After requesting to speak with her supervisor, the petitioner was directed to a man who explained that the restaurant was not serving Roma because several Roma had previously destroyed equipment in the restaurant. When the petitioner related that neither he nor his company had damaged any equipment, the person in charge repeated that only polite Roma would be served.

2.2 On 7 May 1997, the petitioner filed a complaint with the General Prosecutor's Office in Bratislava, requesting an investigation to determine whether an offence had been committed. The case was assigned to the County Prosecutor's Office in Kosice who referred the matter to the Railway Police. In the meantime the applicant also sought remedy from the Slovak Inspectorate of Commerce, responsible for overseeing the lawful operation of commercial enterprises. In a letter to the petitioner, dated 12 September 1997, the Inspectorate reported that it had conducted an investigation into the complaint during the course of which it had been observed that Roma women had been served at the restaurant and that the owner had arranged for there to be no further discrimination against any polite customers, Roma included.

2.3 By resolution dated 8 April 1998, the Railway Police Department in Kosice reported that it had conducted an investigation into the case and found no evidence that an offence had been committed. The petitioner appealed to the County Prosecutor who, in a resolution dated 24 April 1998, ruled that the decision of the Railway Police Department was valid and indicated that there was no further legal remedy available.

The complaint

3.1 Counsel states that the failure to remedy the discrimination in the instant case reflects the absence of any Slovak legislation which expressly and effectively outlaws racial discrimination in access to public accommodations. Mr. Lacko has been forced to live with continuing uncertainty - dependent on the restaurant owner's racially motivated whim - as to whether he will be admitted to the restaurant on any given day. If the owner determines that on one day "polite" Roma will be served, then the applicant may be served if he is deemed sufficiently polite. If, however, the owner decides that no Roma will be served that day, or that the applicant is not sufficiently polite, he will be denied service.

3.2 Counsel claims that a number of rights secured to the petitioner under the Convention have been violated, including article 2, paragraph 1 (d), taken together with article 5 (f), and articles 2, paragraph 2, 3, 4 (c), and article 6 of the Convention.

3.3 Counsel claims that Slovak criminal law has no provision applicable to the violation at issue in the instant case as required by article 2, paragraph 1, taken together with article 5 (f) of the Convention. The petitioner was denied equality before the law in that he and his Romany companions suffered discrimination in access to service in the restaurant on grounds of race and/or ethnicity.

3.4 Counsel claims that by being refused service in the restaurant and told to leave solely for racial reasons, and then being told that only "polite" Roma would be admitted, the petitioner was subjected to policies of racial segregation. The State party's failure to provide any remedies and the absence of any legal norm expressly prohibiting non-discrimination in access to public accommodations constitute failure to comply with its obligation under article 3 of the Convention.

3.5 The State party's failure to sanction or remedy the restaurant's racially motivated discrimination against the petitioner and his Romany companions in fact promoted racial discrimination in violation of article 4 (c) of the Convention. In addition, the continued leasing of space to the restaurant by the main railway station, a public institution, further constitutes promotion by public institutions of racial discrimination.

3.6 Counsel further states that the objective of the communication is a recommendation by the Committee that: (a) the State party provide compensation for the humiliation and degradation the applicant has suffered in being subjected to racial discrimination in his access to the restaurant; (b) the State party take effective measures to ensure that racial discrimination is no longer practised at the restaurant; and (c) the State party adopt legislation expressly prohibiting, and providing effective remedies for, racial discrimination in places or services intended for use by the general public.

Observations by the State party on admissibility

4.1 By submission of 23 June 1999 the State party challenges the admissibility of the communication on grounds of non-exhaustion of domestic remedies. In accordance with section 30, paragraph 2, of Act No. 314/1996 on the Prosecution Authority, the applicant had the possibility to file an application for review of the lawfulness of the resolution with the Regional Prosecution Office in Kosice. A decision by the Regional Prosecution Office could have a substantial impact and result in new proceedings by the District Prosecution Office and the Railway Police.

4.2 Furthermore, the petitioner had the possibility of initiating a civil action under section 11 of the Civil Code, which states that natural persons shall have the right to the protection of their honour, human dignity, privacy, name and manifestations of a personal nature. Belonging to a particular national minority or ethnic group is also one of the attributes of personality; therefore, the injured person may claim the protection of his/her personality in civil proceedings and ask the competent court to be given adequate satisfaction or granted compensation for immaterial injury. The resolution of the District Prosecution Office indicated in this respect that it was without prejudice to the entitlement of the injured party to damages that might be claimed in civil proceedings before a competent court.

4.3 Furthermore, the petitioner could have filed a complaint against the procedure and the result of the investigation carried out by the Inspectorate of Commerce with the Central Inspectorate of the Slovak Inspectorate of Commerce or with the Ministry of Economy, to which the Slovak Inspectorate of Commerce reports. He could also have filed a complaint with the Office of the Government of the Slovak Republic which, under section 2 of Act No. 10/1996 Coll. on inspection in State administration, reviews the processing of petitions, complaints, communications and applications. He also failed to file a petition with the competent Trade Licence Office, in accordance with section 1 of Act No. 71/1967 Coll. on administrative procedure (the Rules of Administrative Procedure). Indeed, the District Prosecutor informed him on 3 July 1997 that he could file petitions with the above professional bodies.

4.4 The State party further submits that the communication does not make it clear which rights of the petitioner guaranteed under national law were violated, which domestic remedies were claimed and when the alleged violations took place. In his complaint to the General Prosecutor the petitioner alleged a crime of support and promotion of movements aiming at suppressing the rights and freedoms of citizens under section 260 of the Criminal Code. The Railway Police suspended the examination of the case in view of the fact that it did not find grounds for such a crime and that the petitioner and his colleagues were served in the bar. In his appeal against the decision of the Railway Police the petitioner did not object to the police conclusion regarding the alleged crime, but rather he claimed a violation of Act No. 634/1992 Coll. on consumer protection. Moreover, in his complaint to the Inspectorate of Commerce the petitioner sought investigation into the violation of a non-existent law on the protection of integrity. None of the complaints made it clear which violation of Act No. 634/1992 Coll. on consumer protection the petitioner claimed and what kind of remedy he sought.

4.5 According to the State party, staff from the Inspectorate of Commerce, as communicated to the petitioner by letter dated 12 September 1997, visited the restaurant accompanied by several Roma women who were duly served and in no way discriminated against. The Inspectorate carried out other subsequent visits to the restaurant but did not find any irregularity of the kind pointed out by the petitioner in his communication, nor did it receive complaints similar to Mr. Lacko's.

Counsel's comments

5.1 In a submission dated 2 August 1999 counsel objects to the State party's argument regarding the exhaustion of domestic remedies. He states that, according to international human rights jurisprudence, the local remedies rule requires the exhaustion of remedies that are available, effective and sufficient.

5.2 Counsel argues that a petition with the Regional Prosecution Office cannot be considered an effective remedy. Having filed a criminal complaint and waited for almost a year for the completion of the criminal investigation, having then in a timely fashion appealed against the conclusion of the police and having finally had his appeal rejected, the petitioner was under no obligation to pursue any further criminal remedy, especially insofar as he was expressly told that no further complaint was admissible.

5.3 Counsel states that the State party has pointed to no law or facts to suggest that a second petition would have met with any more favourable response than the criminal complaint initially filed; repeated petitions are not "effective remedies" for the purpose of admissibility requirements. Since the resolution of the District Prosecution Office was issued on 24 April 1998, no new facts which might have justified a renewed petition have arisen.

5.4 Counsel indicates that the petitioner was not required to seek any criminal remedy for the racial discrimination to which he was subjected because, as a matter of law, there are no effective criminal remedies for racial discrimination in the State party. The State party has not pointed to a single Criminal Code provision which expressly punishes discrimination on the grounds of race or ethnicity in access to public accommodations. The only articles of the Criminal Code which address racism relate to racist speech and racially motivated violence.

5.5 Counsel objects to the State party's argument regarding the petitioner's failure to initiate civil action. It is stated that there are no effective civil or administrative remedies for racial discrimination available under Slovak law. Article 11 of the Civil Code is directed against acts of defamation or breach of privacy and makes no mention of discrimination on the grounds of race or ethnicity. Nor do any consumer protection laws contain a specific anti-discrimination provision with respect to race, which would make it possible to consider the instant case under the terms of the Convention.

5.6 The only remedies the Trade Licensing Board and the Slovak Inspectorate of Commerce could have afforded to the applicant, had they found his rights to have been violated, would be to impose a fine on the restaurant and/or revoke its licence. These remedies are not effective or sufficient and are no substitute for the promulgation of legal norms capable of ensuring that individuals are not subjected to acts of racial discrimination.

5.7 Counsel contends that even when a given legal framework provides for a number of remedies capable of redressing the violation alleged, an individual is not required to pursue more than one. Where there is a choice of effective and sufficient remedies, it is up to the applicant to select one.

5.8 Counsel points out that the European Court of Human Rights has made clear that government actions to terminate a violation of the European Convention, once one has occurred, do not in themselves erase the initial fact of the violation or render an application to the Strasbourg organs inadmissible. On the basis of that jurisprudence counsel contends that any subsequent termination of the refusal to serve the petitioner on the grounds of race in no way redresses the initial violation to which he was subjected or deprives him of victim status for the purpose of the present communication.

5.9 Finally, with respect to the State party's assertion that other Roma have been served at the restaurant, counsel argues that such facts would in no way remedy the discrimination to which the petitioner was subjected. The fact that such rights may be arbitrarily afforded to others does not mitigate their arbitrary and discriminatory denial to the petitioner.

The Committee's decision on admissibility

6.1 At its fifty-fifth session, in August 1999, the Committee considered the admissibility of the communication.

6.2 The Committee noted the State party's claims that the petitioner had failed to exhaust domestic remedies available to him. The Committee recalled that article 14, paragraph 7 (a), of the Convention provides that the Committee shall not consider any communication unless it has ascertained that all available domestic remedies have been exhausted. The Committee has held in its previous jurisprudence that a petitioner is only required to exhaust remedies that are effective in the circumstances of the particular case.[1]

6.3 The Committee has noted that the decision of the District Prosecutor was a final decision as far as the criminal procedure was concerned. The State party failed to demonstrate that a petition for review, which would be a remedy against the legality of the decision, could in the present case lead to a new examination of the complaint. Furthermore, the Committee finds that the facts of the claim were of such a nature that only criminal remedies could constitute an adequate avenue of redress. The objectives pursued through a criminal investigation could not be achieved by means of civil or administrative remedies of the kind proposed by the State party. Therefore, the Committee found that no other effective remedies were available to the petitioner.

6.4 The Committee found that it lacked sufficient information to assess whether, as the petitioner stated, there was legislation in the State party guaranteeing for everyone the right of access to any place or service intended for use by the general public without distinction as to race, colour, or national or ethnic origin.

6.5 The Committee observed that the requirements for admissibility established under rule 91 of its rules of procedure had been met and decided that the communication was admissible. It requested the State party and the petitioner to provide information about domestic legislation and remedies intended to protect one's right of access to any place or service intended for use by the general public without distinction as to race, colour, or national or ethnic origin, as contemplated in article 5 (f) of the Convention.

State party's observations on the merits

7.1 In submissions dated 25 November 1999 and 8 January 2001, the State party provided information on domestic legislation and remedies for the protection of individuals against racial discrimination in the criminal, civil and administrative fields.

7.2 The State party submits that fundamental rights are guaranteed to every person without discrimination in article 12, paragraph 2, of the Constitution. Protection of those rights can be enforced through administrative, civil and criminal procedures. Anyone is entitled to compensation for damage caused by an unlawful decision of a court, another State body or a public administration body on the basis of Act No. 58/1969 Coll.

7.3 The State party further submits that administrative proceedings against the decision of a State organ commence with a complaint in which an individual or a legal entity claim to have their rights breached and request the court to review the lawfulness of the decision. The decision of the court is binding. The court can also rule on decisions of administrative bodies which are not yet final. The State party admits that the Inspectorate of Commerce did not comply with the administrative procedure under which it is obliged to deal with the merits of the case. However, the petitioner could have filed a complaint with the Ministry of Economy, which is the central body of State administration in the field of consumer protection. He could also have filed a complaint under Act No. 58/1968 Coll. on the State's liability for the unlawful decision of a State body. If the petitioner had used all the possibilities contemplated in the Slovak legal order, the restaurant owner could have been sanctioned.

7.4 Sections 11-17 of the Civil Code regulate the protection of personal integrity. Under section 13, a natural person has the right to have arbitrary or unlawful interference with his/her integrity stopped, the consequences of such interference removed and to be given appropriate satisfaction. If the moral satisfaction is deemed insufficient because the dignity or respect enjoyed in society by a natural person was significantly harmed, such natural person is also entitled to compensation for non-pecuniary damage. The amount of compensation shall be determined by the court taking into account the magnitude of the damage and the circumstances under which the violation occurred. Part III, chapter V, of the Code of Civil Procedure regulates the proceedings in matters concerning the protection of personal integrity. The system of civil remedies also distinguishes between regular remedies (appeal) and extraordinary remedies (renewal of proceedings and recourse).

7.5 The petitioner also had the option to seek the protection of his rights pursuant to sections 74, 75 and 102 of the Code of Civil Procedure, according to which a court may order preliminary measures in case it is necessary to have the situation of the parties regulated temporarily or if there is concern that the enforcement of the court decision might be endangered. Furthermore, on the basis of articles 1, 2, 12, 13, 17, 19 and 20 of the Constitution, sections 11 and 13 of the Civil Code should be interpreted as guaranteeing the protection of personal integrity against acts of racial discrimination.

7.6 The legal order of the Slovak Republic also contains legal provisions on consumer protection, in particular Act No. 634/1992 Coll. Section 6 of this law prohibits discrimination explicitly. According to it, sellers may in no way discriminate against consumers, except when the consumer does not satisfy conditions set up under special rules, such as Act No. 219/1996 Coll. on the protection against abuse of alcoholic drinks. Public administration bodies can impose a sanction of up to 500,000 crowns for breaching these provisions. Repeated violation of the prohibition on consumer discrimination may be sanctioned with a fine of up to 1 million crowns.

7.7 The Penal Code regulates protection against racial discrimination. In his criminal complaint the petitioner claimed that the acts alleged fell under section 260 of the Penal Code (support and promotion of movements aiming at suppressing the rights and freedoms of citizens). He did not invoke section 121 of the Penal Code (causing harm to a consumer) or misdemeanour under section 24 of Act No. 372/1990. Section 196, paragraph 2, stipulates that everyone who uses violence against a group of citizens or individuals or threatens them with death or damage to their health and causing serious damage because of their political conviction, nationality, race, confession or for having no confession, shall be punished.

7.8 The State party submitted that the General Prosecution Authority of the Slovak Republic asked the Regional Prosecution Office of Kosice to examine the present communication. The latter reviewed the lawfulness of the procedure applied and the decision reached by the Railway Police and the District Prosecution Office in order to determine whether the manager of the restaurant had committed the crime of supporting and propagating movements leading to the suppression of civil rights and freedoms under section 260 of the Criminal Code, or any other crime. After reviewing the relevant files the Regional Prosecution Office concluded that the ban issued by the manager of the restaurant on serving people of Romany ethnicity justified suspicion of the crime of inciting to national or racial hatred under section 198a, paragraph 1, of the Penal Code. However, in its opinion the acts in question did not entail a sufficient degree of danger to society to be considered a crime. They nevertheless satisfied the criteria to be considered a misdemeanour under section 49, paragraph 1 (a) of Act No. 372/1990 Coll. on misdemeanours. It also considered that a criminal sanction against the manager of the restaurant was foreclosed by the amnesty of 3 March 1998. This opinion was communicated by the Regional Prosecution Office to the petitioner in a letter dated 15 June 1999.

7.9 After reviewing the files concerned, the Prosecutor General disagreed with the legal opinion of the Regional Prosecution Office concerning the degree of danger posed by the act. It considered that the Regional Prosecution Office had manifestly overestimated the conciliatory effects of the discussion between the manager of the restaurant and the petitioner. In a written instruction to the Regional Prosecution Office the Prosecutor General stated that the results of the review sufficiently justified the suspicion that the manager of the restaurant had committed the crime of instigation to national and racial hatred under section 198a, paragraph 1, of the Penal Code, and instructed the subordinate prosecution office accordingly.

7.10 On 19 April 2000, the Kosice District Prosecutor indicted Mr. J.T. On 28 April 2000, the court declared Mr. J.T. guilty of the crime described in article 198a, section 1, of the Penal Code and sentenced him to pay a fine of SK 5,000 or, alternatively, to serve a term of three months' imprisonment. The sentence became effective on 25 July 2000.

Counsel's comments

8.1 In a submission dated 17 February 2000, counsel addresses the issues raised by the State party, repeating the arguments of previous submissions, including the exhaustion of civil and administrative remedies, the existing criminal remedies against discrimination in access to public accommodations, the date on which the racial discrimination at issue took place, and the petitioner's failure to invoke relevant domestic law provisions before the domestic authorities.

8.2 Counsel submits that the European Commission against Racism and Intolerance (ECRI) has repeatedly stated that in Slovakia there are no criminal remedies for acts of discrimination as opposed to those for racist speech, thereby implicitly holding that the crime of incitement to ethnic or racial hatred itself cannot be considered as an applicable remedy for the violations at issue in the instant case. ECRI has also been unable to find any relevant case law that would suggest that any of the provisions of the Slovak Criminal Code would apply to cases of discrimination in access to public accommodations.

8.3 Counsel argues that a remedy delayed too long cannot be considered to be an effective remedy. It took almost three and a half years and a communication filed with the Committee for the Slovak authorities only to indict the person responsible. This in itself, and regardless of the outcome of the proceedings at issue, amounts to a violation of article 6 of the Convention.

Considerations of the merits by the Committee

9. Acting under article 14, paragraph 7 (a), of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee has considered all the information submitted by the petitioner and the State party.

10. In the view of the Committee, the conviction of Mr. J.T. and the penalty imposed, albeit after a long period of time following the events, constitute sanctions compatible with the obligations of the State party. Taking due account of this conviction, even if delayed, the Committee finds no violation of the Convention by the State party.

11. Acting under article 14, paragraph 7 (b), of the Convention, the Committee recommends that the State party complete its legislation in order to guarantee the right of access to public places in conformity with article 5 (f) of the Convention and to sanction the refusal of access to such places for reason of racial discrimination. The Committee also recommends that the State party take the necessary measures to ensure that the procedure for the investigation of violations is not unduly prolonged.

Note

[1] Cf. Anna Koptova v. Slovak Republic, communication No. 013/1998, para. 6.4.

Decision concerning communication No. 14/1998

Submitted by: D.S.

Alleged victim: The petitioner

State party concerned: Sweden

Date of communication: 24 December 1998

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 10 August 2001,

Adopts the following:

Decision on admissibility

1. The petitioner (initial submission dated 24 December 1998) is D.S., a Swedish citizen of Czechoslovak origin, born in 1947, currently residing in Solna, Sweden. She claims to be a victim of violations by Sweden of articles 2, paragraph 2, 5 (e) (i) and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination. The petitioner is not represented by counsel.

The facts as submitted by the petitioner

2.1 In May 1998, the National Council for Cultural Affairs (Statens kulturråd) advertised a vacancy for a post as a statistician within the organization. The Council required applicants have a university degree in statistics supplemented by, for example, sociology or economics and experience in statistical research. Other requirements included good oral and written expression and knowledge of cultural life and policy in Sweden. Applicants should be service-minded, good pedagogues and able to work both independently and in a team.

2.2 A total of 89 individuals applied for the vacancy, including the petitioner and L.J. On 30 June 1998, the Council decided to appoint L.J. The petitioner appealed the decision to the Government and claimed damages due to discrimination.

2.3 On 1 October 1998, the Government rejected the petitioner's appeal. The Government did not give reasons for the decision. The petitioner appealed against this decision as well. In December 1998, this appeal was dismissed, on the ground that the Government's decision of 1 October could not be appealed and that there was no other reason to re-examine the petitioner's appeal.

2.4 The petitioner also filed a complaint with the Ombudsman against Ethnic Discrimination who refused to take any action in her case, as he claimed that it had no merits. In addition, the petitioner's trade union refused to represent her for the same reason. The Ombudsman informed the petitioner of the possibility of making an application to the district court if she did not agree with the opinion of the trade union and the Ombudsman. The petitioner claims that she has exhausted domestic remedies, as it would have been futile to seek redress in the district court in light of the Ombudsman's refusal to take up her case because it lacked merit.

The complaint

3.1 The petitioner claims that she has been discriminated against by Sweden on the basis of her national origin and her status as an immigrant, in the refusal by the National Council for Cultural Affairs to offer her a job. In this context, she objects to the decision of the Council to offer the job in question to L.J. who, she claims, is less qualified than she for the post.

3.2 The petitioner complains generally about the small number of immigrants employed in Sweden and claims that this is due to discrimination against non-Swedes. She claims that the Government has not adopted any measures to improve the situation for immigrants in the workforce in Sweden and states that it should take measures of affirmative action, such as establishing quotas for immigrants for high-level posts, so that immigrants with higher education could obtain work.

State party's observations on admissibility and the petitioner's comments thereon

4.1 In its submission under rule 92 of the Committee's rules of procedure the State party challenges the admissibility of the communication.

4.2 The State party notes that the relevant sources of legal protection against ethnic discrimination in Sweden are the Instrument of Government, the Act of Public Employment and the Act against Ethnic Discrimination. The Instrument of Government lays down the basic principle that public power shall be exercised with respect for the equal worth of all (chap. one, sect. 2). Courts, public authorities and others performing functions within the public administration shall observe in their work the equality of all before the law and maintain objectivity and impartiality. When deciding on appointments within the State administration, only objective factors such as experience and competence shall be taken into account.

4.3 The Act of Public Employment reiterates the principles laid down in the Instrument of Government to the extent that when making appointments to administrative positions, the guiding factors shall be experience and competence. As a general rule, competence is valued more than experience. Authorities must also consider objective factors that correspond to objectives of the overall labour market, equal opportunities, and social and employment policies. Decisions concerning the filling of vacant posts are excluded from the normal requirement that administrative authorities must provide reasons for their decisions. The rationale for this exception is concern for the unsuccessful applicant(s), sparing him/her/them the negative evaluation that divulging such reasons might imply. Under section 35 of the Government Agencies and Institutions Ordinance, appeals against the authorities' decisions may be filed with the Government. An appeal against a decision by the National Council for Cultural Affairs can also be filed with the Government under section 5 of the 1988 Ordinance relating to the National Council for Cultural Affairs.

4.4 Labour disputes may also be tried under the Act against Ethnic Discrimination, which aims at prohibiting discrimination in working life. Under the Act, ethnic discrimination takes place when a person or group of persons is/are treated unfairly in relation to others, or are in any way subjected to unjust or insulting treatment on the grounds of race, colour, national or ethnic origin or religious belief.

4.5 Pursuant to the terms of the Act, the Government has appointed an Ombudsman against Ethnic Discrimination whose mandate is to ensure that ethnic discrimination does not occur in the labour market or other areas of society. The Ombudsman should assist anyone subjected to ethnic discrimination and help safeguard the applicant's rights. He must also make sure that job applicants are not subjected to ethnic discrimination.

4.6 This legislation, which applies to the overall labour market, has two major thrusts. The first is the prohibition of discrimination in relation to applicants for vacancies, which is relevant to the present case. The other prohibition of discrimination covers the treatment of employees. The provision which covers the treatment of job applicants provides that any employer must treat all applicants for a post equally and that, when appointing an applicant, he/she may not subject other applicants to unfair treatment on account of their race, colour, national or ethnic origin or religious belief (sect. 8), i.e. only objective factors shall be considered. Any employer who violates the prohibition of discrimination is liable to pay damages to a job applicant who has been discriminated against.

4.7 Under section 16 of the Act against Ethnic Discrimination, cases of discrimination in employment will be examined pursuant to the Act on Litigation in Labour Disputes. Disputes shall be handled by the Labour Court as the court of first and last instance if they are brought by an employer's organization, an employees' organization, or by the Ombudsman. If the dispute is brought by an individual employer or a job applicant, it shall be heard and adjudicated by a district court. Appeals may be lodged with the Labour Court, which is the court of final instance.

4.8 The State party submits that the petitioner has failed to exhaust available domestic remedies, as required by article 14, paragraph 7 (a), of the Convention. The State party argues that, although the petitioner lodged a complaint with the Ombudsman against Ethnic Discrimination she did not challenge the decision not to appoint her to the vacant post in a district court (with a possibility of appeal to the Labour Court). The State party contends that the petitioner was aware of the possibility of challenging this decision in a district court but considered it futile on the ground that the law against ethnic discrimination in the labour market is not applicable in practice in cases when an immigrant fails to be appointed to a post, despite being better qualified, and at the same time has no direct evidence of discrimination. In this regard, the State party claims that there is nothing to indicate that this case would not have been properly examined by the district court and that merely having doubts about the effectiveness of such a remedy does not absolve a petitioner from pursuing it.

5.1 In response to the State party's comments, the petitioner reiterates that she has exhausted all available and effective domestic remedies. She argues that she did not file proceedings in the district court because of the trade union's and the Ombudsman's decision not to do so on her behalf, claiming that the case had no merits. In addition, the petitioner states that under the Act against Racial Discrimination of 1994 the Ombudsman has only initiated three cases in court and lost all three. For this reason the petitioner claims that an application to court in this instance would be ineffective. She also states that the Act itself has since been amended as it was considered ineffective. The petitioner also states that, although she would receive legal aid for some of the costs of an application to the district court, she would be unable to pay the balance due to her financial situation.[1]

5.2 The petitioner also compares her education and experience with those of the person who got the job in question, attempting to demonstrate that she was the better candidate and that the reason she failed to secure the post was because of her Czechoslovak origin. This discrimination, she claims, is also reflected in the fact that her prospective employer did not take into account the experience she had acquired in her homeland.

6.1 Before considering any claim contained in a communication, the Committee on the Elimination of Racial Discrimination must decide, pursuant to article 14, paragraph 7 (a), of the Convention whether or not the current communication is admissible.

6.2 The Committee notes the State party's contention that the petitioner's claims are inadmissible for failure to exhaust domestic remedies because she did not challenge in the district court the decision not to appoint her to the vacant post. The petitioner replied that she did not take such an action as her trade union refused to represent her and both her trade union and the Ombudsman found that her case had no merits. The petitioner also stated subsequently that, although she would receive legal aid to pay some of the costs involved in such an action, she could not afford to pay the balance. In any event, she claims that such an appeal would have failed, as the applicable legislation is deficient.

6.3 The Committee concludes that, notwithstanding the reservations that the petitioner might have regarding the effectiveness of the current legislation to prevent racial discrimination in the labour market, it was incumbent upon her to pursue the remedies available, including a complaint before the district court. The Committee recalls that doubts about the effectiveness of such remedies do not absolve a petitioner from pursuing them. With respect to the petitioner's claim that she could not continue proceedings in the district court owing to a lack of funds, the Committee notes that the petitioner would have received legal aid to assist her in making her application, and therefore cannot conclude that the expenses involved would have been a grave impediment that would excuse the petitioner from the obligation to exhaust domestic remedies.

6.4 In light of the above, the Committee considers that the petitioner has failed to meet the requirements of article 14, paragraph 7 (a), of the Convention.

7. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the State party and the petitioner.

Note

[1] In this context, the petitioner claims that such an application would cost at least 100,000 krona and that if she were to lose the case she would have to pay the other party's barrister the same amount. She claims that she receives 100,000 krona in unemployment assistance a year net, out of which she pays 34,600 krona for accommodation and has 65,400 krona remaining to live on. She claims that she would receive 60,000 in legal aid and does not have the balance.

Decision concerning communication No. 19/2000

Submitted by:	Sarwar Seliman Mostafa [represented by counsel]
Alleged victim:	The petitioner
State party concerned:	Denmark
Date of communication:	12 April 2000

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 10 August 2001,

Adopts the following:

Decision on admissibility

1. The petitioner (initial submission dated 12 April 2000) is Mr. Sarwar Seliman Mostafa, an Iraqi citizen currently residing in Denmark, together with his wife and daughter. He claims that his rights under article 6 of the Convention have been violated by Denmark. He is represented by counsel.

The facts as submitted by the petitioner

2.1 The petitioner was registered as an applicant for renting an apartment with the Danish housing company DAB (Dansk Almennyttigt Boligselskab). On 8 June 1998 DAB informed him that an apartment was available and asked him whether he would be interested. The petitioner confirmed that he was interested. However, under the existing legislation the municipality of Hoje Tastrup had to approve the contract. In a letter of 16 June 1998 the municipality informed the petitioner that his application had not been approved because of social housing criteria.

2.2 In a letter of 22 June 1998, the petitioner asked the municipality to reconsider its decision. He stated that he had a good job as an engineer and also worked as an interpreter; his wife, who was also an engineer, was training as a kindergarten employee and they both spoke Danish; their daughter attended a Danish kindergarten.

2.3 In a letter dated 3 July 1998 the municipality informed the petitioner that the case would not be reopened and that his complaint had been forwarded to the Social Appeals Board (Det Sociale Ankenaevn).

2.4 On 8 July 1998, the petitioner contacted the non-governmental organization Documentary and Advisory Centre on Racial Discrimination (DRC). The petitioner informed the staff of the Centre that when he contacted the municipality on 1 July 1998 and explained that he would submit a letter from a doctor's family supporting his application in view of the fact that his daughter suffered from asthma, the municipality officer replied that even if he sent the letter, his application would be rejected.

2.5 The petitioner reported the case to the police of Glostrup, which, in a decision of 24 November 1998, refused to investigate the matter under the Danish Act on Racial Discrimination. In a decision of 29 April 1999 the State Attorney for Zealand concluded that there was no reason for reversing the decision of the police. The petitioner also brought the case before the Parliamentary Ombudsman who, in a decision of 4 November 1998, indicated that the petitioner should wait for the decision of the Social Appeals Board.

2.6 In a letter dated 1 October 1998 the Social Appeals Board informed the petitioner that the municipality of Hoje Tastrup had decided to change its previous decision rejecting the petitioner's application. Later on, on 12 October 1999, the Ministry of Housing and Urban Affairs informed the DRC that the family was invited to contact the municipality.

2.7 In a letter of 27 November 1999 the Social Appeals Board informed the DRC that the apartment for which Sarwar Seliman Mostafa was to be approved had been assigned to another person, and therefore it would be impossible to give him full satisfaction as neither the Appeals Board nor the municipality had legal authority to cancel a rental agreement made by the housing company. Furthermore, on 26 January 2000 the housing company informed the DRC that the applicable legislation made it impossible for the company to change the decision which had been annulled by the Social Appeals Board.

2.8 The Social Appeals Board adopted its final decision on the matter on 15 March 2000. It concluded that the municipality's decision of 16 June 1998 was invalid, as Sarwar Seliman Mostafa did fulfil the conditions for approval for the housing facility.

The complaint

3. Counsel claims that the State party has breached its obligations under article 6 of the Convention. He states that, despite the decision of the Social Appeals Board, the petitioner has still not been provided with an appropriate apartment and that the Danish legislation does not provide for adequate satisfaction in cases like the one under consideration. Since neither the police of Glostrup nor the State Attorney was willing to interfere in the case, there is no possibility for the petitioner to make use of any further remedies at the national level.

Observations by the State party

4.1 By a submission of 13 December 2000, the State party challenges the admissibility of the communication. It recalls that on 1 September 1998 the municipality had decided to alter its decision of 16 June 1998 and informed the Social Appeals Board that it had decided to approve the petitioner for the dwelling applied for or a comparable one. As a result the Board considered that the appeal had become moot and, on 1 October 1998, notified the petitioner accordingly. However, in the light of, inter alia, a request from the Parliamentary Ombudsman, the Board decided subsequently to consider the appeal concerning the decision of 16 June 1998. In its decision of 15 March 2000 the Board found that the decision of 16 June 1998 was invalid, although it had been modified by the decision of 1 September 1998.

4.2 The State party further recalls that in a letter of 12 October 1999 addressed to the DRC, the Ministry of Housing and Urban Affairs stated that the Hoje Taastrup local authority's administration of the rules on approval of tenants for non-profit housing in general was contrary to the rules in force, as the local authority used unlawful criteria such as whether the prospective tenant was a refugee or an immigrant. The Ministry indicated that, in the future, it would be very alert to the manner in which local authorities administered the approval scheme and would continue its efforts to ensure that the local authorities do not violate national or international law regarding racial discrimination.

4.3 Having acknowledged that the decision of 16 June 1998 was unlawful according to Danish law, the State party examines the consequences of such acknowledgment, in light of the petitioner's claims under article 6 of the Convention. The State party understands those claims to mean that, as a result of the wrongful act and on the basis of article 6 of the Convention, the petitioner should (a) have had the apartment which he had been wrongfully refused; or (b) have had a similar dwelling assigned to him; or (c) have received financial compensation.

4.4 Options (a) and (b) are not possible. A non-profit housing organization such as DAB is not part of the local authority, but an independent legal entity whose activities are governed by specific rules. When a local authority refuses to approve a person as a tenant, the non-profit housing organization will offer the apartment in question to another person on the waiting list. This means that the apartment will not be vacant when it is subsequently established that the local authority's refusal to approve the applicant was wrongful. Article 6 of the Convention cannot be interpreted to mean that the Convention would require specific performance in such a situation.

4.5 The State party interprets article 6 as having two parts. The first one concerns the provision of "effective protection and remedies" and the second one the provision of "adequate reparation or satisfaction". The first part imposes on States parties a positive obligation to introduce remedies that are available, adequate and effective and that: (a) protect citizens against acts of racial discrimination contrary to the Convention; (b) make it possible for citizens to have established whether they have been subjected to racial discrimination contrary to the Convention; and (c) make it possible for citizens to have the acts of racial discrimination brought to an end. The State party considers that this part of article 6 is not relevant for assessing whether the applicant is entitled to specific performance.

4.6 The second part applies to situations where a person has been subjected to racial discrimination. In such cases the States parties must ensure that the victim has access to "adequate reparation or satisfaction". That means that the act or omission constituting racial discrimination is brought to an end and that the consequences for the victim are remedied in such manner that the state of affairs prior to the violation is restored to the widest extent possible. There will always be cases in which it is not possible to restore the situation prior to a violation. This may be due to the fact, for example, that the racially discriminatory act or omission is delimited in time and place and therefore cannot be reversed (such as a racist statement), or that the interests of innocent third parties should also be protected. In such cases one has to determine whether there have been attempts to remedy the consequences for the victim of the racially discriminatory act or omission.

4.7 The present case is one of those where it is impossible to restore the situation prior to the violation. The apartment for which the petitioner was wrongfully refused approval as a tenant has been let to a third party and regard for the interests of such party is a crucial argument against subsequently calling into question the legal relationship between that party and the non-profit housing organization. To the extent that the petitioner claims that on the basis of article 6 he is entitled to specific performance, the State party finds that the communication should be declared inadmissible on the ground that no prima facie case of violation of the Convention has been established in respect of this part of the communication.

4.8 Furthermore, neither the Social Appeals Board nor any other authority has the possibility of assigning another dwelling to a person whom a local authority has wrongfully refused to approve as a tenant of a non-profit dwelling. Apart from cases where a local authority can assign a non-profit dwelling for the purpose of solving urgent social problems, it is the non-profit housing organization itself that allocates vacant dwellings to applicants. In practice, the person in question will remain on the waiting list and will have an apartment offered when one becomes vacant, whereupon the local authority will approve the person, unless new circumstances have arisen as a result of which the person no longer satisfies the conditions for approval. In this case, however, the petitioner had chosen to have his name removed from the waiting list of DAB in Hoje Taastrup.

4.9 Regardless of the wrongful conduct of the Hoje Taastrup municipality, it was the petitioner's own choice not to remain on the list, as a result of which it became impossible for DAB to offer him another dwelling. To the extent that the petitioner claims that as a consequence of article 6 of the Convention he should have been offered another and comparable dwelling without otherwise satisfying the general conditions for obtaining one, including being on the waiting list, the communication should be declared inadmissible, as no prima facie case of violation of the Convention has been established in respect of this part of the communication.

4.10 As for the question of damages, the State party argues that the issue has not been brought before the Danish courts and, therefore, the petitioner has failed to exhaust domestic remedies. For this purpose it is irrelevant that the police and the public prosecutor rejected the petitioner's claims.

4.11 The local authority's refusal to approve the petitioner as a tenant raised two different issues: first, whether the refusal constituted a criminal offence and second, whether the refusal was otherwise wrongful, including whether the local authority had used unlawful criteria such as the petitioner's race, colour, descent, or national or ethnic origin. The police and the public prosecutor only had to assess the first issue, while the second one was assessed by other authorities, including the Social Appeals Board.

4.12 The State party claims that the decisions of the police and the public prosecutor were decisive in the context of the criminal proceedings, but did not in any way preclude the petitioner from instituting civil proceedings. In connection with such proceedings the petitioner would have been able to refer, inter alia, to the decision of the Social Appeals Board and the opinion of the Ministry of Housing and Urban Affairs. If the petitioner believes that he has suffered a pecuniary or non-pecuniary loss, the institution of civil proceedings will be an effective remedy. Damages do not depend, directly or indirectly, on the outcome of criminal proceedings.

4.13 It follows from the general rules of Danish law on damages in tort that administrative authorities may incur liability in damages for actionable acts and omissions. It is therefore possible to claim damages for losses suffered by a person because of an invalid administrative decision. Cases in dispute are dealt with by ordinary courts in connection with civil proceedings against the administrative authority in question.

Counsel's comments

5.1 Counsel argues that the fact that neither the Social Appeals Board nor any other authority has the possibility to assign another appropriate dwelling to a person who has wrongfully been refused approval as a tenant of a non-profit dwelling only demonstrates the failure of Danish legislation to provide effective reparation in a case like the one under consideration.

5.2 Counsel refers to the State party's statement in paragraph 4.8 above that the person in question would remain on the waiting list and be offered an apartment when one became vacant. He claims that the petitioner was not aware of that practice and that the letter of 1 September 1998 from the municipality of Hoje Taastrup to the Social Appeals Board was never sent to the petitioner or the DRC.

5.3 Counsel disagrees with the State party's statement that it was possible for the petitioner to claim damages for losses suffered or for tort and says that Danish courts have refused to apply rules on damages in tort in cases of discrimination. The fact that a person has been subjected to discrimination does not automatically entitle that person to damages in tort. In this respect he provides a copy of a decision of 4 August 2000 concerning a case in which discrimination was established where the Copenhagen City Court did not find that the act of discrimination entitled the victims to damages in tort. Counsel reiterates that all domestic remedies have been exhausted.

5.4 Counsel further submits that the Convention is not incorporated into domestic law and expresses doubts as to whether the Danish courts would apply the Convention in a dispute between private parties.

Additional information by the State party

6.1 In response to a request by the Committee to furnish additional information on effective remedies available to the author for the implementation of the decision of the Social Appeals Board dated 15 March 2000, or for receiving compensation, the State party, by note of 6 July 2001, affirms that the institution of a civil action against the Hoje Taastrup local authority for compensation for pecuniary or non-pecuniary damage is an available and effective remedy. The author had the possibility of instituting an action before the ordinary courts based on the Hoje Taastrup local authority's decision of 16 June 1998 and invoking the International Convention on the Elimination of All Forms of Racial Discrimination. In this connection the State party refers to the practical effect of the Committee's recommendation in a prior case, No. 17/1999 (Babak Jebelli v. Denmark), which illustrates that Danish courts interpret and apply section 26 of the Liability in Damages Act in the light of article 6 of the Convention. Accordingly, the State party concludes that the communication should be declared inadmissible because the author has not exhausted available and effective domestic remedies.

6.2 On 18 July 2001, counsel informed the Committee that he had no further comments on the additional information from the State party.

Admissibility considerations

7.1 Before considering the substance of a communication, the Committee on the Elimination of Racial Discrimination examines whether or not the communication is admissible, pursuant to article 14, paragraph 7 (a), of the Convention and rules 86 and 91 of its rules of procedure.

7.2 The Committee notes that the petitioner brought his claim before the police and the State Attorney who, in a decision of 29 April 1999, refused to investigate the matter under the Danish Act on Racial Discrimination. At the same time, the Social Appeals Board examined the case and concluded, on 15 March 2000, that the decision of the municipality not to approve the author as a tenant was invalid. In the meantime, the municipality had decided to alter its previous decision and approve the petitioner for the apartment applied for or an equivalent one. The Social Appeals Board informed the petitioner of the municipality's new decision by letter of 1 October 1998.

7.3 The Committee notes that, despite the new decision of the municipality and that of the Social Appeals Board, the petitioner was not provided with an apartment equivalent to the one initially applied for, nor granted compensation for the damage caused to him as a result of the first decision of the municipality. The Committee notes, however, that the petitioner did not meet one of the conditions required to be assigned an equivalent apartment, namely, to remain on the waiting list. This failure cannot be attributed to the State party. In the circumstances, the petitioner could not obtain redress in the form of assignment of the original or of an equivalent dwelling. He could, however, have sought compensation.

7.4 As to the question of damages, the State party argues that the petitioner did not institute civil proceedings and, therefore, has not exhausted domestic remedies. Despite the arguments given by the petitioner and the reference to previous jurisprudence of the Danish courts, the Committee considers that doubts about the effectiveness of such proceedings cannot absolve a petitioner from pursuing them. Accordingly, the Committee considers that, by not exhausting the available domestic remedies, the petitioner has failed to meet the requirements of article 14, paragraph 7 (a), of the Convention.

8. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the State party and to the petitioner.

9. In accordance with rule 93, paragraph 2, of the Committee's rules of procedure, a decision taken by the Committee that a communication is inadmissible may be reviewed at a later date by the Committee upon a written request by the petitioner concerned. Such written request shall contain documentary evidence to the effect that the reasons for inadmissibility referred to in paragraph 7 (a) of article 14 are no longer applicable.

Decision concerning communication No. 21/2001

Submitted by:	D.S.
Alleged victim:	The petitioner
State party concerned:	Sweden
Date of communication:	9 July 2001

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 10 August 2001,

Adopts the following:

Decision on admissibility

1. The petitioner (initial submission dated 9 July 2001) is D.S., a Swedish citizen of Czechoslovak origin, born in 1947, currently residing in Solna, Sweden. She claims to be a victim of violations by Sweden of articles 2, paragraph 2, 5 (e) (i) and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination. The petitioner is not represented by counsel.

The facts as submitted by the petitioner

2.1 On 30 November 1999, the petitioner applied for a position as "an investigator" at Ungdomstyrelsen in Stockholm. This organization carries out, among other things, research studies at the request of the Government or on its own initiative on the conditions of life of young people. The vacancy announcement said that it was looking for two new staff members and that the requirements were a university degree in social science, experience in public research work, knowledge of research methodology and English, and experience using statistical material. Experience in research work and in development, follow-up and evaluation were also required. Good knowledge of oral and written Swedish and ability to cooperate and work independently were also prerequisites for the posts.

2.2 Ungdomstyrelsen decided to appoint A.K, I.A and S.Z to the posts. It appears that a third post was also made available after the announcement. On 6 March 2000, the petitioner appealed the decision to the Government claiming that she had been discriminated against.

2.3 On 6 July 2000, the Government rejected the petitioner's appeal. The Government did not give reasons for the decision. The petitioner appealed against this decision as well and this appeal was similarly dismissed, on the ground that the Government's decision of 6 July 2000 could not be appealed and that there was no other reason to re-examine the petitioner's appeal.

2.4 The petitioner also filed a complaint with the Ombudsman against Ethnic Discrimination who refused to take any action in her case, as he claimed that it had no merits. The Ombudsman stated that Ungdomstyrelsen chose individuals for the post on the basis of their education and professional experience and that there was no reason to question the employer's judgement. The petitioner states that she has not brought the case to the district court as she claims that the new law against ethnic discrimination does not apply to individuals who allege discrimination at the recruitment stage, and even if it were applicable, she could not afford to do so.

The complaint

3. The petitioner claims that she has been discriminated against by Sweden on the basis of her national origin and her status as an immigrant in the refusal by Ungdomstyrelsen to offer her a job. In this context, she objects to the decision to offer the jobs in question to A.K, I.A and S.Z, all of Swedish origin, who she claims are less qualified than she for the post.

Issues and proceedings before the Committee

4.1 Before considering any claim contained in a communication, the Committee on the Elimination of All Forms of Racial Discrimination must decide, pursuant to article 14, paragraph 7 (a), of the Convention, whether or not the current communication is admissible.

4.2 The Committee notes that, although the petitioner was aware that she could have challenged the decision not to appoint her to the vacant post in the district court, she did not do so, as she believes that the legislation is deficient and claims that she could not afford to take such an action.

4.3 The Committee concludes that, notwithstanding the reservations that the petitioner might have regarding the effectiveness of the current legislation to prevent racial discrimination in the labour market, it was incumbent upon her to pursue the remedies available, including a complaint before the district court. The Committee recalls that doubts about the effectiveness of such remedies does not absolve a petitioner from pursuing them. With respect to the petitioner's claim that she could not file proceedings in the district court because of a lack of funds, the Committee notes that the petitioner has provided no further information in this regard and therefore it cannot conclude that the expenses involved would have been a grave impediment excusing her from the obligation to exhaust domestic remedies.

4.4 In light of the above, the Committee considers that the petitioner has failed to meet the requirements of article 14, paragraph 7 (a), of the Convention.

5. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the petitioner and, for information, to the State party.

ANNEX IV

DOCUMENTS RECEIVED BY THE COMMITTEE AT ITS FIFTY-EIGHTH AND FIFTY-NINTH SESSIONS IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

1. The following is a list of the working papers referred to in chapter V submitted by the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:

Pitcairn	A/AC.109/2000/2
American Samoa	A/AC.109/2000/3
New Caledonia	A/AC.109/2000/4
Tokelau	A/AC.109/2000/5
Guam	A/AC.109/2000/6
Western Sahara	A/AC.109/2000/7 and Corr.1
St. Helena	A/AC.109/2000/8
Montserrat	A/AC.109/2000/9
Gibraltar	A/AC.109/2000/10
Falkland Islands (Malvinas)	A/AC.109/2000/11 and Corr.1
East Timor	A/AC.109/2000/12
Bermuda	A/AC.109/2000/13
Cayman Islands	A/AC.109/2000/14
Anguilla	A/AC.109/2000/15
Turks and Caicos Islands	A/AC.109/2000/16
United States Virgin Islands	A/AC.109/2000/17 and Corr.1
British Virgin Islands	A/AC.109/2000/18

ANNEX V

COUNTRY RAPPORTEURS FOR REPORTS OF STATES PARTIES CONSIDERED BY THE COMMITTEE AT ITS FIFTY-EIGHTH AND FIFTY-NINTH SESSIONS

Initial and periodic reports considered by the Committee	Country rapporteur
ALGERIA Thirteenth and fourteenth periodic reports (CERD/C/362/Add.6)	Mr. Pillai
ARGENTINA Fifteenth periodic report (CERD/C/338/Add.9)	Mr. Valencia Rodríguez
BANGLADESH Seventh to eleventh periodic reports (CERD/C/379/Add.1)	Mr. Pillai
CHINA Eighth and ninth periodic reports (CERD/C/357/Add.4 (Parts I and II))	Mr. Valencia Rodríguez
CYPRUS Fifteenth and sixteenth periodic reports (CERD/C/384/Add.4)	Mr. Thornberry
EGYPT Thirteenth to sixteenth periodic reports (CERD/C/384/Add.3)	Mr. Diaconu
GEORGIA Initial report (CERD/C/369/Add.1)	Mr. Fall
GERMANY Fifteenth periodic report (CERD/C/338/Add.14)	Mr. Bossuyt
GREECE Twelfth to fifteenth periodic reports (CERD/C/363/Add.4/Rev.1)	Mr. Reshetov

Initial and periodic reports considered by the Committee	Country rapporteur
ICELAND Fifteenth and sixteenth periodic reports (CERD/C/338/Add.10 and CERD/C/384/Add.1)	Mr. Lechuga Hevia
ITALY Twelfth and thirteenth periodic reports (CERD/C/406/Add.1)	Mr. Bossuyt
JAPAN Initial and second periodic reports (CERD/C/350/Add.2)	Mr. Valencia Rodríguez
Portugal Ninth periodic report (CERD/C/357/Add.1)	Mr. Yutzis
SUDAN Ninth to eleventh periodic reports (CERD/C/334/Add.2)	Ms. January-Bardill
SRI LANKA Seventh to ninth periodic reports (CERD/C/357/Add.3)	Mr. Tang
TRINIDAD AND TOBAGO Eleventh to fourteenth periodic reports (CERD/C/382/Add.1)	Mr. Pillai
UKRAINE Fifteenth and sixteenth periodic reports (CERD/C/384/Add.2)	Ms. McDougall
UNITED STATES OF AMERICA Initial to third periodic reports (CERD/C/351/Add.1)	Mr. Reshetov
VIET NAM Sixth to ninth periodic reports (CERD/C/357/Add.2)	Ms. January-Bardill

ANNEX VI

COMMENTS OF THE COMMITTEE ON A REPORT ON THE UNITED NATIONS HUMAN RIGHTS TREATY SYSTEM (2001)

1. Having considered the matter carefully and openly, the Committee on the Elimination of Racial Discrimination feels compelled to express its strong disagreement with statements made in the recent report prepared by Professor Anne Bayefsky with the cooperation of the High Commissioner for Human Rights, entitled The UN Human Rights Treaty System: Universality at the Crossroads (2001). The statements have been utilized by one Government in particular in a political critique of the Committee. It will be recalled that the human rights treaty body system is dedicated to an objective examination by independent experts of the fulfilment of obligations undertaken by States in the field of human rights. The treaty bodies are held in high respect by Governments, intergovernmental organizations, human rights activists and scholars and, most importantly, by the victims of human rights violations.

2. In terms of the specific recommendations made in the report, the Committee does not subscribe to those of the author concerning the roles which the United Nations High Commissioner for Human Rights and non-governmental organizations are envisaged by the author as playing in its functioning. The Committee believes that the report is mistaken in its appreciation of the role of concluding observations, which should be understood not as the outcome of a judicial process but as a step in an ongoing dialogue between the Committee and the States parties. Neither does the report take sufficient account of the legal and material constraints under which the Committee works, nor of the many initiatives undertaken with the objective of overcoming difficulties. The report's lack of insight on such issues has also been the subject of critical observations by distinguished commentators who have a deep understanding of the treaty body system.

3. The Committee strongly rejects the report's allegations of bias in its concluding observations on States parties' reports under article 9 of the Convention, and equally resents the allegation that its early warning procedures were driven by political considerations: on the contrary, the Committee had solid grounds to invoke those procedures in relation to serious human rights situations in countries such as Australia, Burundi, Congo, Israel, Rwanda and the Federal Republic of Yugoslavia. No evidence is offered by the author for the claims of bias, which strike at the heart of the treaty body system, described in the very first sentence of the executive summary of the report as "the core of the international system for the promotion and protection of human rights". The Committee has been concerned in the past with protecting the impartiality and independence of its members and recalls in this respect its general recommendation IX, adopted in 1990, which includes the observation that "respect for the independence of the experts is essential to secure full observance of human rights and fundamental freedoms".

4. The Committee consists of 18 independent experts, elected by States parties, who perform their duties in accordance with a solemn declaration that they will carry out their duties "honourably, faithfully, impartially and conscientiously" (article 8, paragraph 5 (b), of the Convention and rule 13, paragraph 1, of the Committee's rules of procedure). Each member of the Committee brings to its work personal and professional expertise in the light of a particular

background and experience. The result is a dynamic pluralism. The decisions of the Committee are the products of many individual views subsumed into a common view. The risks of political "bias" in the outcomes of such a system of "checks and balances" are reduced to a minimum. No one member or group of members dominates and characterizes the results of the Committee's deliberations. The States parties to the Convention present differing circumstances and approaches to the implementation of their obligations under the Convention. The Committee's responses, whether in concluding observations or in invoking early warning procedures, must necessarily adapt to the circumstances before it. The principles of objectivity, equality and fairness to States are not violated by this approach; on the contrary, they are vindicated.

5. The preoccupation of the Committee remains the enhancement of the protection of victims of racial discrimination everywhere, within the mandate given to it by the Convention. Many of the issues raised in the report are technical questions concerning the operation of the treaty bodies, and the report as a whole provides some useful thoughts for all those genuinely concerned with improving the implementation of human rights. Regrettably, any merits of the report as a whole are outweighed by its distorted account of the Committee's work, which does not accurately reflect its particular and significant contribution to the improvement of human rights. The Committee makes continuous efforts to improve its working methods and the quality of its dialogue with States parties, and remains open and receptive to objective and insightful critiques of its work.

1489th meeting
15 August 2001
[Adopted without a vote.]

ANNEX VII

COMMENTS OF STATES PARTIES ON THE CONCLUDING OBSERVATIONS ADOPTED BY THE COMMITTEE

A. The initial and second periodic reports of Japan*

The Government of Japan submitted the following comments:

1. With regard to "the population in Okinawa seeks to be recognized as a specific ethnic group and claims that the existing situation on the island leads to acts of discrimination against it" in the seventh paragraph:

(a) We know that some people claim that the population of Okinawa is a different race from the Japanese race; however, we do not believe that this claim represents the will of the majority of the people in Okinawa. Those who live in Okinawa prefecture or are natives of Okinawa are of the Japanese race, and they are not generally considered to be a group of people who have biological or cultural characteristics different from those of the Japanese race;

(b) It is not clear what the statement "the existing situation on the island leads to acts of discrimination against" the population on Okinawa specifically means. However, concerning United States military facilities and areas in Okinawa, in order to relieve the burden on the residents of Okinawa owing to the concentration on the island of 75 per cent of all United States military facilities and areas in Japan, the Japanese Government has been working on steady implementation, with full force, of the final report of the Special Action Committee on Okinawa, which aims at the arrangement, integration and reduction of the United States military facilities and areas, in cooperation with the United States Government.

2. With regard to the meaning of "descent" in article 1 (1) of the Convention, mentioned in paragraph [106], the Government does not share the Committee's interpretation of "descent".

3. With the aim of resolving the problem of discrimination against the Burakumin through improvement of the low economic level, living environment, etc. of Burakumin communities, the Government has enacted three special measures, i.e. the Law on Special Measures for Dowa Projects, the Law on Special Measures for Regional Improvement and the Law Concerning Special Government Financial Measures for Special Regional Improvement Projects, and has been actively promoting various other measures for more than 30 years. We believe that as a result of long-standing activities to resolve the problem of discrimination against the Burakumin by both the Government and local public entities, gaps in various areas have been greatly reduced, including through completion of the establishment of a physical foundation for the improvement of the living environment in Burakumin. We also believe that education and enlightenment for relieving the sense of discrimination have been promoted based on various plans, and the sense of discrimination among the people has certainly been lessened.

---

* See paragraphs 159 to 185 of the present report.

4. Concerning paragraph [167] of the concluding observations, the Government is not in a position to make comments on the ideal way of applying the provisions of the Convention related to individual cases at the courts. In general it is not concluded that the courts are reluctant to apply the Convention immediately because there are few cases referring to provisions of the Convention in opinions, in view of the following:

(a) There is the constraint that the application of law by the court is premised on a fact authorized by the court on the basis of facts claimed or evidence submitted by the parties concerned;

(b) Since the purport of the Convention has already been reflected in the provisions of domestic law, there are a considerable number of cases in which the conclusion would be the same even if the provisions of the Convention itself are not applied.

5. Concerning paragraph [168] of the concluding observations:

(a) As it is obvious from the provision "by all appropriate means" in article 2 (1) of the Convention legislative measures are as required by circumstances and are requested to be taken when the States parties consider legislation appropriate. We do not recognize that the present situation of Japan is one in which discriminatory acts cannot be effectively restrained by the existing legal system and in which explicit acts of racial discrimination, which cannot be restrained by measures other than legislation are committed. Therefore, penalization of these acts is not considered necessary;

(b) Furthermore, with regard to dissemination and expression of ideas of racial discrimination, if the ideas include content which damages the honour or credit of a certain individual or group, it is possible to penalize them under the crime of defamation, insult, or damage of credit/obstruction of business under the Penal Code. In addition, it is possible to penalize them under the crime of intimidation under the Penal Code if the ideas contain intimidatory content aimed at a certain individual. Also, violent actions with a motivation or background of a racially discriminatory idea can be penalized under the crime of inflicting injury, crime of violence, etc. under the Penal Code.

6. Concerning the Committee's recommendation in paragraph [170] to ensure both penalization of racial discrimination and effective protection from and remedies for racially discriminatory acts, Japan has placed a reservation on implementing the obligations of article 4 (a) and (b) stating that Japan fulfils the obligations under these provisions to the extent compatible with the right to freedom of expression, etc. guaranteed under the Constitution. However, the legislative obligation for punishment within the scope is sufficiently secured, as described above, by the existing penal statute, such as for defamation, and claim for damages is also possible through civil procedures; therefore, there are sufficient domestic laws to secure fulfilment of the obligations under the Convention with the above reservation.

7. In addition, the human rights organs of the Ministry of Justice actively conduct promotional activities concerning all forms of discrimination, including racial discrimination, with the aim of disseminating and enhancing respect for human rights. Human rights

counselling rooms have been set up to accept inquiries from those who have suffered discrimination. In addition, when specifically recognizing incidents of alleged infringement of fundamental human rights, the organs promptly investigate the incidents as human rights infringement cases, find out the facts of the infringement and, based on the results, take proper measures for the case.

8. The Council for Human Rights Promotion established in the Ministry of Justice considered remedy measures for racial discrimination based on the purport of the International Convention on the Elimination of All Forms of Racial Discrimination. It submitted a report on the ideal framework of the human rights remedy system in May 2001. The report proposes that a new human rights remedy system, the central core of which is the Human Rights Committee (tentative name), independent of the Government, should be created, and that the said committee should provide active relief measures with more effective investigatory procedures and remedial measures for the victims of certain human rights infringements, including discriminatory treatment based on race, colour, or national or ethnic origin, etc. in social life. The Government, having the utmost regard for the recommendations of the Council, will make every endeavour to establish the proposed new human rights relief mechanism so that it can provide effective remedies for victims of discriminatory treatment based on race, etc.

9. With regard to "the Committee notes with concern statements of a discriminatory character made by high-level public officials and, in particular, the lack of administrative or legal action taken by the authorities as a consequence in violation of article 4 (c) of the Convention and the interpretation that such acts can be punishable only if there is an intention to promote and incite racial discrimination" in paragraph [171]:

(a) The main paragraph of article 4 limits the subjects to be condemned by the States parties to all propaganda, etc. which is based on ideas or theories of superiority of one race, etc., or which attempt to justify or promote racial hatred and discrimination. As it is clear from the limitation, the article places an obligation on the States parties of taking certain measures against acts that have the intention of promoting racial discrimination. Therefore, it is considered that acts without such intention are not the subject of the article;

(b) Japan is not the only country which makes such an interpretation. For example, article 18, paragraph 5, of the Public Order Act of 1986 of the United Kingdom provides that "a person who is not shown to have intended to stir up racial hatred is not guilty of an offence under this section if he did not intend his words, or behaviour, or the written material, to be, and was not aware that it might be, threatening, abusive or insulting";

(c) Furthermore, the Joint Statement on Racism and the Media (a joint statement by the United Nations Special Rapporteur on freedom of opinion and expression, the Representative on freedom of the media of the Organization for Security and Co-operation in Europe and the Special Rapporteur on freedom of expression of the Organization of American States) defines laws for discriminatory statements as follows: "No one should be penalized for the dissemination of hate speech unless it has been shown that they did so with the intention of inciting discrimination, hostility or violence".

10. In relation to "the Committee is concerned about reports of violent actions against Koreans, mainly children and students, and about the inadequate reaction of the authorities in this regard and recommends that the Government take more resolute measures to prevent and counter such acts", in paragraph [172]:

(a) The police have already taken measures to prevent further occurrence of such violent actions by keeping stricter watch at places where such actions are likely to take place and during the times in which students go to and leave school, as well as by collaborating with related organizations and cooperating with schools. In addition, article 189 (2) of the Code of Criminal Procedure provides that police officers shall, when they consider that there exists an offence, investigate the offender and evidence. Accordingly, active investigations have been made to resolve cases, irrespective of whether the injured party was Japanese or non-Japanese, by observing the equality under the law stipulated in article 14 (1) of the Constitution of Japan. Therefore, "inadequate reaction" pointed out in the concluding observations is not true;

(b) Furthermore, the human rights organs of the Ministry of Justice promptly gathered information on these incidents of violence and aggressively conducted awareness-raising activities in order to prevent such violent actions by calling public attention to the prevention of discrimination on the streets, distributing information booklets and putting up posters in school-commuting roads and public transport that are used by many Korean children and students residing in Japan. The Government will continue conducting positive investigations and implementing measures appropriate for each case regarding the cases that are suspected of infringing human rights, and making efforts to raise awareness of respect for human rights among those concerned.

11. In relation to paragraph [173]:

(a) In cases where children of foreign nationality residing in Japan did not choose to receive Japanese education, it is undeniable that they might find some kind of difference in subsequent education, training and employment compared with those who received Japanese school education;

(b) It goes without saying that such difference must not lead to an infringement of the economic, social and cultural rights contained in article 5 of the Convention. Under the Japanese system, these rights are guaranteed without distinction as to race, colour, or national or ethnic origin.

12. In relation to "the Committee is particularly concerned that studies in Korean are not recognized and that resident Korean students receive unequal treatment with regard to access to higher education", in paragraph [174]:

(a) In Japan, regulations were amended in September 1999 to enable graduates from foreign schools, including Korean schools in Japan, to acquire the qualification for entering a college or university by taking the University Entrance Qualification Examination. In addition, since 1979, the qualification for entering a college or university has also been recognized for international school graduates who have acquired the International Baccalaureate (IB) diploma provided by the International Baccalaureate Organization, a non-profit educational organization in Switzerland;

(b) As mentioned above, the Japanese Government recognizes the qualification for entering a college or university of graduates of foreign schools that do not meet the standards of public education on condition that they satisfy certain academic requirements, and our understanding is that such a practice is common throughout the world. Therefore, the insistence on "unequal treatment" in the concluding observations is inadequate;

(c) In fact, even schools in which most of the students are Korean can be authorized as regular schools if they meet the public education standards. As a matter of fact, the qualification for entering a college or university is recognized for graduates of such authorized schools. Each school can decide whether or not to apply for that authorization.

13. In relation to "it is recommended that … the State party ensure access to education in minority languages in public Japanese schools", in the same paragraph:

(a) It is not clear what kind of education is specifically intended by "education in minority languages" mentioned in the Committee's recommendation. While we believe that there exist linguistic minorities in the respective States parties to the Convention, the Japanese Government is not aware that many of these countries provide public education using only a minority language. Therefore, it is considered inadequate to state that Japanese public education is discriminatory merely for the reason that the Government does not provide the entire public education only in a minority language;

(b) Secondly, with respect to guaranteeing the right to education stipulated in the Convention without distinction as to race, colour, or national or ethnic origin, the Japanese Government provides the children who use minority languages with the opportunity to enter public elementary and lower secondary schools to receive the same education as Japanese children, if they so desire. Also, in such cases, best efforts are made so that the children who use minority languages can receive Japanese education smoothly by offering Japanese language lessons, support by teachers, and even support by staff members who can speak their native language (minority language). For instance, staff members who speak the Korean language collaborate with teachers to provide Japanese language lessons and other supports to Korean children and students who do not have sufficient Japanese language skills in order to help them receive Japanese education smoothly;

(c) The Japanese Government recognizes that the right to education stipulated in the Convention is already guaranteed in Japan through the efforts described above.

14. In relation to "the Committee expresses its concern that authorities reportedly continue to urge applicants to make such changes [of name] and that Koreans feel obliged to do so for fear of discrimination", paragraph [176]:

(a) The Japanese Government is aware that there is discrimination against Koreans residing in Japan, but it has been making continuous efforts to create a society free of discrimination through school education programmes and various awareness-raising activities;

(b) In the meantime, there is no fact that the authorities are urging Koreans applying for Japanese nationality to change their names to Japanese names, but instead, the authorities are extensively informing applicants that they can determine their names freely after naturalization.

B. The sixth to ninth periodic reports of Viet Nam*

The following letter dated 16 August 2001 was addressed to the Chairman of the Committee by the Permanent Representative of Viet Nam to the United Nations Office at Geneva:

"Dear Mr. Chairman,

"I am addressing this letter to you in regard to the content of the concluding observations by the Committee on report of Viet Nam's implementation of the Convention. While reaffirming our strong commitments to promote dialogue and cooperation with the Committee, I would like to convey to you and other distinguished members the disappointment of my delegation at some observations by the Committee which we consider unbalanced. For the sake of objective comprehension of the facts by the Committee, I would wish to offer the following observations and clarification.

"– Looking simply at the format of the paragraphs, one sees the imbalanced proportion between the 'positive aspects', which are dominant features in our case but inadequately mentioned, and the 'concerns', many of which are taken, unfortunately, on the basis of distorted information and allegations.

"– The observations and recommendations contained in paragraphs [418, 420, 421 and 422] in particular are exemplary of this. There has never been any justified complaint about non-protection of the refugees' rights in Viet Nam; on the contrary, Viet Nam's resolution of the Indo-Chinese refugee problem was considered as a model and good example by UNHCR. In fact, the whole paragraph [420] as well as the phrase 'including the rights of Vietnamese repatriated from Cambodia' is really at odds. By the same token, the allegation of forced sterilization of minority women in paragraph [418] is wrong. Regarding paragraphs [421 and 422], it is regrettable that the distorted information and allegations of some irresponsible NGOs, which were obscurely raised by one member, have been taken as the Committee's view.

---

* See paragraphs 409 to 429 of the present report.

"– My delegation's concern is that such concluding observations mentioned above do not promote constructive dialogue on the part of the States parties, neither do they help to encourage steady implementation of the Convention, nor do they enhance the Committee's prestige and credibility.

"– Finally, I would like to take this opportunity to attach herewith* a few pages of a recent United Nations document on Viet Nam's development progress for authentic reference by the Committee's members. I also kindly request that this letter be included in the annual report of the Committee to the General Assembly.

"Please accept, Sir, the assurances of my highest consideration.

Respectfully yours,

(Signed) Nguyen Quy Binh
Ambassador
Permanent Representative"

---

* Attachment available in the files of the secretariat.

ANNEX VIII

LIST OF DOCUMENTS ISSUED FOR THE FIFTY-EIGHTH AND FIFTY-NINTH SESSIONS OF THE COMMITTEE

CERD/C/391	Provisional agenda and annotations of the fifty-eighth session of the Committee
CERD/C/392	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the fifty-eighth session of the Committee
CERD/C/393	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention
CERD/C/410	Provisional agenda and annotations of the fifty-ninth session of the Committee
CERD/C/411	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the fifty-ninth session of the Committee
CERD/C/60/Rev.4	Declarations, reservations, withdrawals of reservations
A/CONF.189/PC.2/13	Contribution of the Committee on the Elimination of Racial Discrimination to the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance
CERD/C/SR.1438-1464	Summary records of the fifty-eighth session of the Committee
CERD/C/SR.1465-1493	Summary records of the fifty-ninth session of the Committee
CERD/C/304/Add.111	Concluding observations of the Committee on the Elimination of Racial Discrimination: Iceland

CERD/C/304/Add.112	Concluding observations of the Committee on the Elimination of Racial Discrimination: Argentina
CERD/C/304/Add.113	Concluding observations of the Committee on the Elimination of Racial Discrimination: Algeria
CERD/C/304/Add.114	Concluding observations of the Committee on the Elimination of Racial Discrimination: Japan
CERD/C/304/Add.115	Concluding observations of the Committee on the Elimination of Racial Discrimination: Germany
CERD/C/304/Add.116	Concluding observations of the Committee on the Elimination of Racial Discrimination: Sudan
CERD/C/304/Add.117	Concluding observations of the Committee on the Elimination of Racial Discrimination: Portugal
CERD/C/304/Add.118	Concluding observations of the Committee on the Elimination of Racial Discrimination: Bangladesh
CERD/C/304/Add.119	Concluding observations of the Committee on the Elimination of Racial Discrimination: Greece
CERD/C/304/Add.120	Concluding observations of the Committee on the Elimination of Racial Discrimination: Georgia
CERD/C/304/Add.121	Concluding observations of the Committee on the Elimination of Racial Discrimination: Italy
CERD/C/304/Add.122	Concluding observations of the Committee on the Elimination of Racial Discrimination: China

CERD/C/304/Add.123	Concluding observations of the Committee on the Elimination of Racial Discrimination: Trinidad and Tobago
CERD/C/304/Add.124	Concluding observations of the Committee on the Elimination of Racial Discrimination: Cyprus
CERD/C/304/Add.125	Concluding observations of the Committee on the Elimination of Racial Discrimination: United States of America
CERD/C/304/Add.126	Concluding observations of the Committee on the Elimination of Racial Discrimination: Sri Lanka
CERD/C/304/Add.127	Concluding observations of the Committee on the Elimination of Racial Discrimination: Viet Nam
CERD/C/304/Add.128	Concluding observations of the Committee on the Elimination of Racial Discrimination: Ukraine
CERD/C/304/Add.129	Concluding observations of the Committee on the Elimination of Racial Discrimination: Egypt
CERD/C/334/Add.2	Ninth to eleventh periodic reports of the Sudan submitted in one document
CERD/C/338/Add.9	Fifteenth periodic report of Argentina
CERD/C/338/Add.10	Fifteenth periodic report of Iceland
CERD/C/338/Add.13	Fifteenth periodic report of Germany
CERD/C/350/Add.2	Initial and second periodic reports of Japan submitted in one document
CERD/C/351/Add.1	Initial to third periodic reports of the United States of America submitted in one document
CERD/C/357/Add.1	Ninth periodic report of Portugal

CERD/C/357/Add.2	Sixth to ninth periodic reports of Viet Nam submitted in one document
CERD/C/357/Add.3	Seventh to ninth periodic reports of Sri Lanka submitted in one document
CERD/C/357/Add.4 Parts I, II and III	Eighth and ninth periodic reports of China submitted in one document
CERD/C/362/Add.6	Thirteenth to fourteenth periodic reports of Algeria submitted in one document
CERD/C/363/Add.4/Rev.1	Twelfth to fifteenth periodic reports of Greece submitted in one document
CERD/C/369/Add.1	Initial report of Georgia
CERD/C/379/Add.1	Seventh to eleventh periodic reports of Bangladesh submitted in one document
CERD/C/382/Add.1	Eleventh to fourteenth periodic reports of Trinidad and Tobago submitted in one document
CERD/C/384/Add.1	Sixteenth periodic report of Iceland
CERD/C/384/Add.2	Fifteenth and sixteenth periodic reports of Ukraine submitted in one document
CERD/C/384/Add.3	Thirteenth to sixteenth periodic reports of Egypt submitted in one document
CERD/C/384/Add.4	Fifteenth and sixteenth periodic reports of Cyprus submitted in one document
CERD/C/406/Add.1	Twelfth and thirteenth periodic reports of Italy submitted in one document